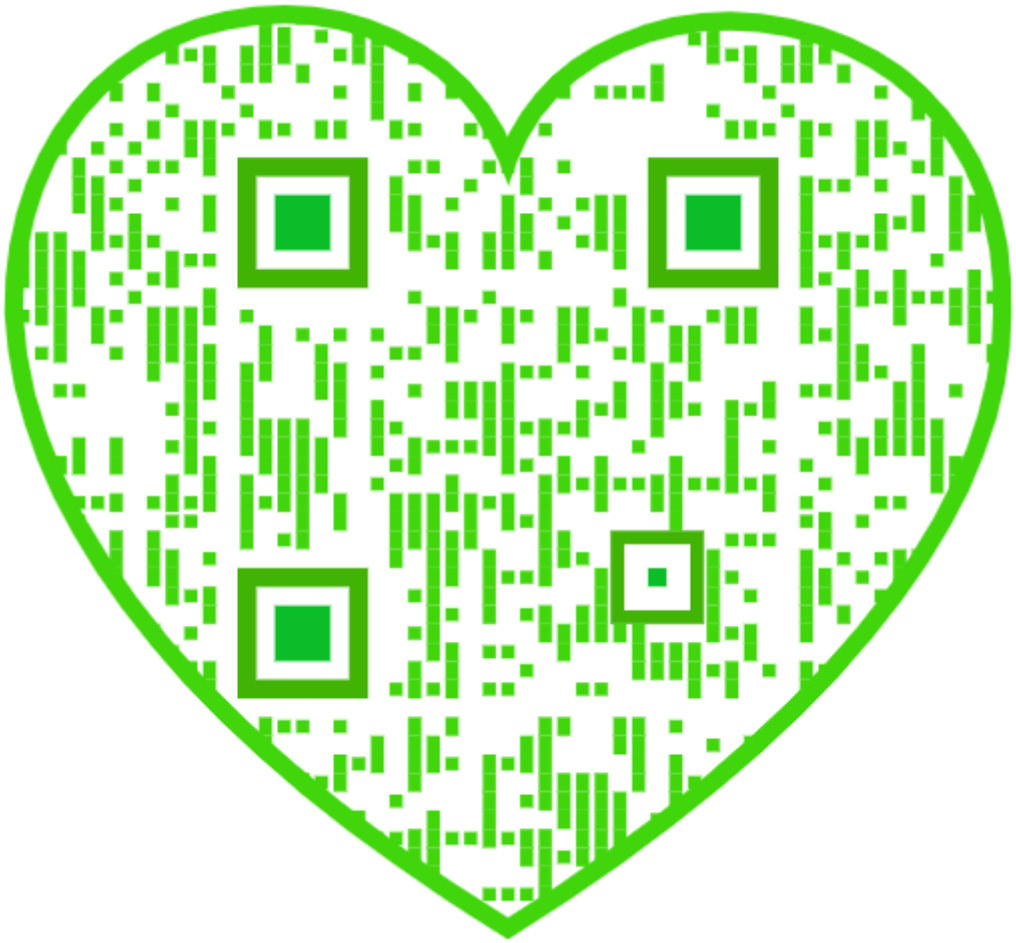

THE

STATE GOVERNMENT SERIES

EDITED BY

B. A. HINSDALE, Ph.D., LL.D.

VOLUME VII.

CONVENTION HALL, PHILADELPHIA.

HISTORY

AND

Civil Government of Pennsylvania

100701

BY

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Professor of the Science and the Art of Teaching in the University of Michigan, Author of "The American Government," Editor of the State Series, and joint Author of the "History and Civil Government of Ohio."

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AND

THE GOVERNMENT OF THE UNITED STATES

BY

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CHICAGO NEW YORK BOSTON

WERNER SCHOOL BOOK COMPANY

THE STATE GOVERNMENT SERIES

UNDER THE GENERAL EDITORSHIP OF

B. A. HINSDALE, Ph.D., LL.D.

Professor of the Science and the Art of Teaching in the University of Michigan; Author of "The American Government," "Studies in Education," etc.

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History and Civil Government of Pennsylvania

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INTRODUCTION

Some things in civil government can and should be taught in connection with the regular lessons on the history of the United States. For instance, the nature and purposes of taxes, direct and indirect, should be made plain when the pupil is first taught that taxation without representation was one of the abuses which led to the American Revolution. No one likes to pay tax. The pupil should be taught that a willingness to pay a just share of tax for the support of the government and for the education of the people is fully as much the mark of a patriot as a willingness to make sacrifices on the field of battle in defense of one's country.

The meaning of a vote and the sacredness of the ballot can be taught in connection with many of the lessons in American history. The perpetuity of a free government depends very largely upon the faith of the people in the purity and efficacy of the ballot. The boy who asked his teacher whether it is justifiable to accept money for doing what is right, say for an honest day's work, and if so, whether it is not justifiable to accept money for a vote provided one votes the right ticket, was sadly in need of instruction showing why the law has made it a crime either to buy or to sell a vote. An excellent point of departure for a lesson on the wickedness of bribery is the famous reply of Gen. Joseph Reed: "I am not worth purchasing; but such as I am, the King of Great Britain is not rich enough to buy me."

In the career of most pupils there comes a time when Civics should be taken up as a separate study. The laws of Pennsylvania do not include this among the branches that must be taught in the public schools, but the duty of the teacher to prepare the pupils for the discharge of their duties as citizens, implies that he should teach them how the laws are made and administered, how justice is dispensed in our courts, how the officers of the government are elected or appointed, and what are the benefits which accrue from good government to society and to the individual. This, of course, involves instruction on the origin and history of different phases of local, State and National government.

For more than a century the schools have been inculcating hatred of red-coats and of those who fought against us in the wars for independence and for the preservation of the Union. The late war with Spain has changed our point of view, and it is to be hoped that instead of inculcating hatred of the Mother Country, of the Fatherland, of the North or the South, our schools will, during the next century, inspire the children with proper respect for what is good in other lands and other nations. The time has come when our people should calmly and dispassionately ask wherein we have the best government on the face of the earth, and wherein we may learn valuable lessons from the governments of the British Empire and of Continental Europe.

In the most advanced schools it will be profitable to compare the government of Pennsylvania with the governments of other States, the government at Harrisburg with the government at Washington, and finally our Federal Government with the governments of other civilized countries. The comparative study of government should not be neglected by the youth who seeks to fit himself for the discharge of all his civic duties in times of both peace and war.

NATHAN C. SCHAEFFER.

HARRISBURG, PA., May 1, 1899.

LITERATURE

It is perhaps needless—at least it should be needless—to insist that the teacher of such a work as this needs a much wider knowledge of the subject than can be acquired from the book itself. The titles of books given below and accompanying remarks will aid teachers to make this wider preparation.

In preparing the historical portions of the work, the authors have used freely the following authorities:

Poore, Ben. Perley.—The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States. Two heavy volumes, but indispensable to the student who would go to the sources of the subject.

Lalor, J. J.—Cyclopædia of Political Science, Political Economy, and of the Political History of the United States. The three volumes constituting this work should be in every considerable high school in the country.

Acrelius, Israel.—A History of New Sweden, or the Settlements on the River Delaware, Translated from the Swedish, etc. This is the most authoritative work on the subject.

Shepherd, W. R.—History of the Proprietary Government in Pennsylvania. This is a heavy book, but full of important information.

Fisher, Sidney George.—The Making of Pennsylvania, and Pennsylvania Colony and State. Some of this author's views have been severely criticised; still he presents an interesting and, in the main, a correct account of the history of Pennsylvania.

Dixon, W. H.—William Penn, An Historical Biography. An eulogistic but very readable work.

Wickersham, J. P.—A History of Education in Pennsylvania, etc. This is an indispensable work to the student of its subject.

Sharpless, Isaac.—A Quaker Experiment in Government. An important contribution to the history of the State.

Repplier, Agnes.—Philadelphia, The Place and the People. A delightful book that pupils in the schools will read with great interest and advantage.

Sachse, J. F.—The German Pietists of Provincial Pennsylvania, and The Fatherland, 1450-1700, Showing the part it bore in the discovery, exploration, and development of the Western Continent, with Special Reference to the Commonwealth of Pennsylvania These are learned volumes, abounding in interesting and curious information, more especially the first one.

Hinsdale, B. A.—The Old Northwest. Chapters VI., VII.

Parkman, Francis.—Montcalm and Wolfe. 2 vols., and The Conspiracy of Pontiac and the Indian Wars after the Conquest of Canada. 2 vols. These two works contain graphic accounts of the Indian wars on the Pennsylvania border.

LITERATURE

In preparing the description of the State Government, these are the principal works used:

Digest of the Laws of Pennsylvania. Pepper and Lewis. 2 vols.
Laws of the General Assembly of the Commonwealth of Pennsylvania, passed at the Session of 1895.
Laws of the General Assembly of the Commonwealth of Pennsylvania, passed at the Session of 1897.
The Common School Laws of Pennsylvania and Decisions of the Superintendent.
Report of the Superintendent of Public Instruction of the Commonwealth of Pennsylvania, 1896.
Smull's Legislative Handbook and Manual of the State of Pennsylvania, 1898.
The City Government of Philadelphia. A Study in Municipal Administration. Publications of the University of Pennsylvania.
Report of the Board of Commissioners of Public Charities of the Commonwealth of Pennsylvania, 1897.

In connection with a sketch of State history like the one here presented, other literature should be used that will appeal especially to the State interest and patriotism of the pupil. The books named above are nearly all for the teacher, while local histories and tales, stories and poems, turning on historical incidents, should be furnished the pupil.

Stories of Pennsylvania or School Readings from Pennsylvania History, J. S. Walton and M. G. Brumbaugh, published by the American Book Company, can be strongly recommended for such use.

The story of Wyoming has been often told in prose and verse. Campbell's Gertrude of Wyoming, despite its mistakes of detail, has become, as has been said, "as much a part of the region as the rocks and stones," and is the first book to be mentioned in this connection. The American poets, Rodman Drake and Fitz Greene Halleck, both found subjects for poems in Wyoming.

Whittier's Pennsylvania Pilgrim is mentioned on a future page. The Quaker poet has still other poems on Pennsylvania subjects.

Thomas Buchanan Read's The Wagoner of the Alleghanies is a spirited production.

Geography, too, contributes from its own peculiar store of interest. Mr. Longfellow's "Poems of Places," Vol. xxvii. (America, Middle States), contains many good pieces on Pennsylvania subjects, as Whittier's The Hive at Gettysburg, Taylor's Lincoln at Gettysburg, and Bret Harte's John Burns at Gettysburg.

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GENERAL INTRODUCTION.

The character of the volumes that will comprise The State Government Series is indicated by the name of the series itself. More definitely, they will combine two important subjects of education, History and Government. It is proposed in this Introduction briefly to set forth the educational character and value of these subjects, and to offer some hints as to the way in which they should be studied and taught, particularly as limited by the character of the Series.

1. The Educational Value of the Study of History and Government.

Not much reflection is required to show that both of these subjects have large practical or guidance value, and that they also rank high as disciplinary studies.

1. *History.*—When it is said that men need the experience of past ages to widen the field of their personal observation, to correct their narrow views and mistaken opinions, to furnish them high ideals, and to give them inspiration or motive force; and that history is the main channel through which this valuable experience is transmitted to them—this should be sufficient to show that history is a very important subject of education. On this point the most competent men of both ancient and modern times have delivered the most convincing testimony. Cicero called history "the witness of times, the light of truth, and the mistress of life." Dionysius of Halicarnassus said "history is philosophy teaching by

examples," and Lord Bolingbroke lent his sanction to the saying. Milton thought children should be taught "the beginning, the end, and the reasons of political societies." Another writer affirms that "history furnishes the best training in patriotism, and enlarges the sympathies and interests." Macaulay said: "The real use of traveling to distant countries, and of studying the annals of past times, is to preserve them from the contraction of mind which those can hardly escape whose whole commerce is with one generation and one neighborhood."

In every great field of human activity the lessons of history are invaluable—in politics, religion, education, moral reform, war, scientific investigation, invention, and practical business affairs. The relations of history and politics are peculiarly close. There could be no science of politics without history, and practical politics could hardly be carried on. But, more than this, there can be no better safeguard than the lessons of history against the specious but dangerous ideas and schemes in relation to social subjects that float in the atmosphere of all progressive countries. In fact, there is no other safeguard that is so good as these lessons; they are experience teaching by examples. The man who has studied the history of the Mississippi Scheme, the South Sea Bubble, or some of the less celebrated industrial or economical manias that have afflicted our own country, is little likely to embark in similar schemes himself, or to promote them. The man who has studied the evils that irredeemable paper money caused in France in the days of the Revolution, or the evils that the Continental money caused in our own country, will be more apt to form sound views on the subjects of currency and banking than the man who has had no such training. The

school of history is a conservative school, and its lessons are our great defense against cranks, faddists, and demagogues.

2. *Government.*—Politics is both a science and an art. It is the science and the art of government. As a science it investigates the facts and principles of government; as an art it deals with the practical applications of these facts and principles to the government of the state.

Now it is manifest that the art of politics, or practical government, directly concerns everybody. Few indeed are the subjects in which men, and particularly men living in great and progressive societies, are so deeply interested as in good government. The government of the state is charged with maintaining public order, securing justice between man and man, and the promotion of the great positive ends of society. For these purposes it collects and expends great revenues, which are ultimately paid from the proceeds of the labor of the people. Furthermore, in republican states, such as the American Union and the forty-five individual States that make up the Union, government is carried on by the people through their representatives chosen at popular elections. The voters of the United States are a great and rapidly growing body. In the presidential election of 1888, 11,388,007 citizens participated; in the presidential election of 1896, 14,071,097 — a growth of more than 2,080,000 in eight years. Moreover, these voters are felt in many other ways and places; they vote for National representatives, for State legislatures, executives, and judges, for county, township, and city offices, for the supervisors of roads and the directors of the public schools. There is not a point in the whole round of National, State, and Local government that the popular will, as expressed at elections,

does not touch. Every man is, therefore, directly concerned to understand the nature and operations of these governments, and almost equally concerned to have his neighbors also understand them.

We have been dealing with practical politics exclusively. But the art of government depends upon the science of government. The government of a great country like our own, at least if a good one, is a complicated and delicate machine. Such a government is one of the greatest triumphs of the human mind. It is the result of a long process of political experience, and in its elements at least it runs far back into past history. It is, therefore, a most interesting study considered in itself. All this is peculiarly true of our own government, as will be explained hereafter.

However, this complicated and delicate machine is not an end, but only a means or instrument; as a means or instrument it is ordained, as the Declaration of Independence says, to secure to those living under it their rights—such as life, liberty, and the pursuit of happiness; and the extent to which it secures these rights is at once the measure of its character, whether good or bad.

It is also to be observed that a government which is good for one people is not of necessity good for another people. We Americans would not tolerate a government like that of Russia, while Russians could hardly carry on our government a single year. A good government must first recognize the general facts of human nature, then the special character, needs, habits, and traditions of the people for whom it exists. It roots in the national life and history. It grows out of the national culture. Since government is based on the facts of human nature and human society, it is not a mere crea-

ture of accident, chance, or management. In other words, there is such a thing as the science of government or politics. Moreover, to effect and to maintain a good working adjustment between government and a progressive society, is at once an important and difficult matter. This is the work of the practical statesman. And thus we are brought back again to the fact that the science of government is one of the most useful of studies.

Mention has been made of rights, and of the duty of government to maintain them. But rights always imply duties. For example: A may have a right to money that is now in B's posssession, but A cannot enjoy this right unless B performs the duty of paying the money over to him. If no duties are performed, no rights will be enjoyed. Again, the possession of rights imposes duties upon him who possesses them. For example: The individual owes duties to the society or the government that protects him in the enjoyment of his rights. Rights and duties cannot be separated. Either implies the other. Accordingly, the practical study of government should include, not only rights, but also duties as well. The future citizen should learn both lessons; for the man who is unwilling to do his duty has no moral claim upon others to do theirs,

The foregoing remarks are particularly pertinent to a republican government, because under such a government the citizen's measure of rights, and so of duties, is the largest. Here we must observe the important distinction between civil and political rights. The first relate to civil society, the second to civil government. Life, liberty of person, freedom of movement, ownership of property, use of the highways and public institutions, are civil rights. The suffrage, the right to hold

office under the government, and general participation in public affairs are political rights. These two classes of rights do not necessarily exist together; civil rights are sometimes secured where men do not vote, while men sometimes vote where civil rights are not secured; moreover, both kinds of rights may be forfeited by the citizen through his own bad conduct. Evidently political rights are subordinate to civil rights. Men participate in govermental affairs as a means of securing the great ends for which civil society exists. But the great point is this—republican government can be carried on successfully only when the mass of the citizens make their power felt in political affairs; in other words, perform their political duties. To vote in the interest of good government, is an important political duty that the citizen owes to the state. Still other political duties are to give the legally constituted authorities one's moral support, and to serve the body politic when called upon to do so. These duties grow out of the corresponding rights, and to teach them is an essential part of sound education.

It has been remarked that good government rests upon the facts of human nature and society, that such a government is a complicated machine, and that it is an interesting subject of study. It is also to be observed that the successful operation of such a government calls for high intellectual and moral qualities, first on the part of statesmen and public men, and secondly on the part of the citizens themselves. There are examples of an ignorant and corrupt people enjoying measurable prosperity under a wise and good monarch; but there is no example of a democratic or republican state long prospering unless there is a good standard of intelligence and virtue. This is one of the lessons that Washington

impressed in his Farewell Address: "In proportion as the structure of a government gives force to public opinion, it is essential that public opinion shall be intelligent."

Government deals with man in his general or social relations. Robinson Crusoe living on his island neither had, nor could have had, a government. Man is born for society; or, as Aristotle said, "man has a social instinct implanted in him by nature." Again, man is political as well as social; or, as Aristotle says, "man is more of a political animal than bees, or any other gregarious animal." Hence the same writer's famous maxim, "Man is born to be a citizen."

These last remarks bring before the mind, as a subject of study, man in his relations to his fellow men. The study of man in these relations has both practical and disciplinary value. At first man is thoroughly individual and egotistical. The human baby is as selfish as the cub of the bear or of the fox. There is no more exacting tyrant in the world. No matter at what cost, his wants must be supplied. Such is his primary nature. But this selfish creature is endowed with a higher, an ideal nature. At first he knows only rights, and these he greatly magnifies; but progressively he learns, what no mere animal can learn, to curb his appetites, desires, and feelings, and to regard the rights, interests, and feelings of others. To promote this process, as we have already explained, government exists. In other words, the human being is capable of learning his relations to the great social body of which he is a member. Mere individualism, mere egotism, is compelled to recognize the force and value of altruistic conviction and sentiment. And this lesson, save alone his relations to the Supreme Being, is the greatest lesson

that man ever learns. The whole field of social relations, which is covered in a general way by Sociology, is cultivated by several sciences, as ethics, political economy, and politics; but of these studies politics or government is the only one that can be introduced in didactic form into the common schools with much success. In these schools civil government should be so taught as to make it also a school of self-government.

It may be said that so much history and politics as is found in these volumes, or so much as can be taught in the public schools, does not go far enough to give to these studies in large measure the advantages that have been enumerated. There would be much force in this objection, provided such studies were to stop with the elementary school. But fortunately this is not the case. The history and the politics that are taught in the elementary school prepare the way for the history and the politics that are taught in the college and the university. Furthermore, and this is in one aspect of the subject still more important, they also prepare the way for much fruitful private study and reading in the home.

II. Methods of Study and Teaching.

Under this head history will be considered only so far as it is involved in politics. Our first question is, Where shall the study of government begin? The answer will be deferred until we have considered the general features of the government under which we live.

The United States are a federal state, and the American government is a dual government. Our present National Government dates from the year 1789. It was created by the Constitution, which, in that year, took the place of the Articles of Confederation. At that time the State governments were in full operation, and it was

the State governments were in full operation, and it was not the intention of the framers of the Constitution, or of the people who ratified it, to supersede those governments, or, within their proper sphere, to weaken them. Experience had conclusively shown that the country needed a stronger National Government, and this the people undertook to provide. So they undertook to accomplish in the Constitution the objects that are enumerated in the Preamble.

"We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

The Constitution also formally denied some powers to the United States and some to the States; that is, it forbade the one or the other to exercise the powers so prohibited. (See Article I, sections 9, 10.) The understanding was that the mass of powers not delegated to the Union exclusively, or forbidden to the States, continued to remain in the hands of the people in their State capacities. Moreover, this understanding was expressly asserted in Article X of the Amendments.

Accordingly, the Government of the United States must be studied under two aspects, one National and one State. The case is quite different from what it would be in England or France, both of which countries have single or unitary governments. This duality makes the study more interesting, but more difficult, and suggests the question whether it should begin with the Nation or the State. The answer must be deferred until still other facts have been taken into account.

The powers that the State Governments exercise are exercised through a variety of channels. (1.) Some are exercised directly by State officers. For the most part these are powers that concern the State as a whole. (2.) Some are exercised by county officers within the county. (3.) Some are exercised by town or township officers within the town or county. (4.) Some are exercised by city or municipal officers within the city. (5.) A few fall to officers elected by divisions of townships, as road-masters and school directors.

Items 2, 3, 4 and 5 of this enumeration constitute local government, which the people of all the States, in some form, have retained in their own hand. Here we meet a political fact that distinguishes us from some other countries, the vigorous vitality of local institutions. France, for example, although a republic, has a centralized government; many powers are there exercised by national officers that here are exercised by local officers, while there the state often asserts direct control over the local authorities. Strong attachment to local self-government, and opposition to centralized government, is one of the boasted glories of the English-speaking race. Subject to the State constitution, the State Legislature is the great source of political power within the State. The county, the township, and the city owe their political existence and peculiar organization to the Legislature.

Different States have organized local government in different ways. Speaking generally, there are three types — the Town type, the County type, and Mixed type. The Town type is found exclusively in the New England States. It throws most of the powers of local government into the hands of the town, few into the hands of the county. The County type, which is found

in the Southern States and in a few others, reverses this method; it throws all local powers into the hands of the county, and makes the sub-divisions of the county merely an election precinct, the jurisdiction of the justice of the peace, and perhaps the unit of the militia company. The Mixed, or Compromise system, as its name implies, combines features of the other two. It makes more use of the county, and less of the town, than New England; more of the township, and less of the county, than the South. It is found in the Central States and generally, but not universally, throughout the West.

Now not much argument is needed to show that the study of government, even within the limits of the elementary school, should embrace the two spheres in which the American Government moves, the sphere of the Nation and the sphere of the State. Neither is much argument called for to show that the study of the State should embrace local government, as well as State government proper. The argument on the whole subject divides into two main branches — the one practical, the other pedagogical.

Unfortunately, the time given to the study of government in the schools has not always been wisely distributed. For many years the National Government received disproportionate attention, and such, though perhaps in less degree, is still the case. But, important as the powers of the Nation are, the common citizen, in time of peace, has few relations with it outside of the Post Office Department, while his relations with the State are numerous and constant. President Garfield, in 1871, said: "It will not be denied that the State government touches the citizen and his interests twenty times where the National Government touches him once."

Still another point may be urged. An American State is a distinct political community. It is a separate commonwealth having its own constitution, laws, and officers. It has its own history. The people boast its services to the country. They point to its great names. They glorify the associations that cluster about its name. They dwell upon its typical or ideal life. All this is educative in a striking sense; such an environment necessarily reacts upon the people. Who can measure the effect of the old Bay State ideal, or the Old Dominion ideal, upon the people of either State?

Once more, Local government has received too little attention as compared with State government proper. Township or county government is on such a diminutive scale that to many it seems a subject unworthy of serious study. But it is important to teach the youth of the county that their future prosperity and happiness, as a rule, will depend upon what is done by road-masters, school directors, township trustees or supervisors, county commissioners or county courts, city authorities, and the like, far more than upon what is done by the Governor or the President. The common citizen is tenfold more concerned in the proceedings in the courts held by justices of the peace and by county judges than in the causes that are decided by the Supreme Court of the United States.

Government is fundamentally an information or guidance study. It is put in the schools to teach the pupil how to perform his political duties intelligently when he comes to the state of manhood. In order that he may perform these duties intelligently, he must understand the nature and the ends of government, whether National, State, or Local, and the mode of its operation.

The fact is, however, that characteristic features of our government are ill understood by thousands of our citizens. The functions of the Executive and of the Judiciary are often confounded; likewise the functions of State authorities and National authorities. A multitude of citizens participate in every election of electors for President, who do not know how the President is elected. The line dividing the State sphere from the National sphere is a very hazy matter to many persons who consider themselves intelligent. Owing partly to this fact, and partly to the greater prominence of the Union, there is always a tendency in many quarters to hold the National authorities responsible for what the State authorities have or have not done. The adjustment of Local Government to the State and National Governments is another matter concerning which many are confused. Tax-payers can be found in every neighborhood who think the taxes that they pay to the township or the county treasurer go to Washington.

What has been said will suffice for the practical branch of the argument. Taking up the pedagogical branch, let us first observe the nature and the origin of the child's early education in respect to government.

It is in the family, in personal contact with its members, that the child forms the habits of obedience and deference to others. It is here that he learns, in a rudimentary and experimental way, that he is part of a social whole. Here he acquires the ideas to which we give the names *obedience, authority, government,* and the like. His father (if we may unify the family government) is his first ruler, and the father's word his first law. Legislative, executive, and judicial functions are centered in a single person. These early habits and ideas are the foundations of the child's whole future education in government, both practical and theoretical.

His future conception of the governor, president, king, or emperor is developed on the basis of the idea of his father; his conception of society, on the basis of the idea of his home; his conception of government by the State, on the basis of family government. Of course these early habits and ideas are expanded, strengthened, and adjusted to new centers.

While still young, the child goes to school. This, on the governmental side, is but a repetition of the home. It is the doctrine of the law that the teacher takes the place of the parent: *in loco parentis.* The new jurisdiction may be narrower than the old one, but it is of the same kind. The education of the school reinforces the education of the home in respect to this all-important subject. The habits of obedience and deference are strengthened. The child's social world is enlarged. At first he thought, or rather felt, that he was alone in the world; then he learned that he must adjust himself to the family circle; now he discovers that he is a member of a still larger community, and that he must conduct himself accordingly. The ideas of authority, obedience, law, etc., are expanded and clarified.

About the time that the child goes to school he begins to take lessons in civil government. This also is developed on the basis of his previous home-training. It begins at the very door-step. The letter-carrier, the policeman, the justice of the peace, and the postmaster introduce him to the government of the outer world. Some or all of these officers he sees and knows, and others he hears about. The very mail wagon that rattles along the street teaches its lesson, and so do other symbols of authority that confront him. He attends an election and hears about the caucus. As he grows older, the town council, the court of the local magistrate, and the constable or sheriff teach him the

meaning of the three great branches of government. His ears as well as his eyes are open. Politics is the theme of much familiar conversation to which he listens. With all the rest, he reads the newspaper, and so enlarges his store of political information.

Still other agencies contribute to the grand result. The church, public meetings, societies of various kinds, all teach the lessons of order and discipline.

Such, in general, are the steps by which the child makes his way out of the world of isolation and selfishness into the world of social activity and light. Such is the character of his early education in morals and politics. Nor is it easy to overestimate these early lessons. To suppose that the child's political education begins when he first reads the Constitution of the United States, is like supposing that his moral education begins when he is first able to follow the preacher's sermon.

All this training is unconscious and mainly incidental, and the more effective for that very reason. But such training will not meet the ends of intelligent citizenship. Nor can the political education of citizens be left to the newspaper and the political speaker. Government must be formally taught in the schools. But what shall be the order of study? Shall the child begin at Washington, at the State capital, or at his own home? In other words, shall he begin with the National Government, with the State government proper, or with Local government?

For a time the student of government should continue to work on the material that lies right about him, just as the student of geography should find his first lessons at home. On this point the arguments already presented are decisive. The practical argument shows that this will be the most useful course to pursue. The pedagogical argument shows that it is also the easiest, the

most natural, and the most successful. In general then the method should be — first, the Local Government; second, the State Government, and last, the National Government.

We have now reached a point where we can define more clearly and fully the special object of the series of books to which this is a general introduction. These books are designed for the first stage of the formal study of the subject of government. They are written on the theory announced; viz.: That the child's political education begins at home, and should for a time proceed from the home outward. The series is appropriately named The State Government Series. A volume will be given to a State. The successive volumes will first present an outline sketch of the civil history of the State, and then outline sketches of the State and National Governments as they now exist and operate.

With two or three practical suggestions to teachers, this Introduction may fitly close.

The first of these suggestions is that if the proper course be taken, the study of the National system will not be deferred until the pupil has made a complete survey of the State System. The State system can no more be understood alone than the National system alone. When the intelligent pupil, and particularly a boy, is old enough to take up one of the volumes of this series, he will already have made some progress in dis-discriminating the two systems. He will know that Congress and the President belong to the Nation, the Legislature and the Governor to the State. But at the outset it may be advisable for the teacher to broaden and deepen this line of division. This can be done, if need be, in one or more oral lessons devoted especially to the subject. Moreover, the teacher should keep an eye on this line from first to last. He should encourage the

pupil to read the Constitution of the United States, and in particular should direct his attention to the general powers of Congress as summed up in Article I, section 8, which are the driving wheels of the National Government.

The second observation is that unremitting care must be taken to make the instruction real. The commonplaces about the abstractness and dryness of verbal instruction, and particularly book instruction, will not be dwelt upon, except to say that they apply to our subject with peculiar force. The study of history, when it is made to consist of memorizing mere facts, is to the common pupil a dry and unprofitable study. Still more is civil government dry and unprofitable when taught in the same manner. There is little virtue in a mere political document or collation of political facts. The answer that the school boy made to the question, "What is the Constitution of the United States?" is suggestive. He said it was the back part of the history that nobody read. Hence the book on government must be connected with real life, and to establish this connection is the business of the teacher. On this point three or four hints may be thrown out.

The teacher should not permit the Governor, for example, to be made a mere skeleton. He should see rather that he is made to the pupil a man of flesh and blood, holding a certain official position and exercising certain political powers. It is better to study the Governor than the Executive branch of the government; better to inquire, What does the Governor do? than, What are the powers of the Executive?

The teacher should stimulate the pupil to study the political facts about him. He should encourage him to observe the machinery of political parties, the holding of elections, council meetings, courts of local magis-

trates, and the doings of the policeman, constable, and sheriff. This suggestion includes political meetings and conversations upon political subjects. By observation an undue personal attendance upon such proceedings is not meant. To that, of course, there might be several objections.

Pupils in schools should be encouraged to read the newspapers, for political among other reasons. The publications prepared particularly for school use to which the general name of "Current Events" may be given, are deserving of recommendation.

Still another thought is that the study be not made too minute. It should bear rather upon the larger features of the special topics. This remark is particularly applicable to the judiciary, which nearly all persons of ordinary education find more or less confusing.

The suggestions relative to observation of political facts are peculiarly important in a country like our own. To understand free government, you must be in touch with real political life.

In teaching Civil Government, the first point is to develop Civic Spirit — the spirit that will insist upon rights and perform duties.

The last word is a word of caution. The method that has been suggested can easily be made too successful. Our American atmosphere is charged with political interest and spirit; and, while the pupil who takes a lively interest in current politics, as a rule, will do better school work than the pupil who does not, the teacher must exercise care that partisan spirit be not awakened, and that occupation in current events do not mount up to a point where it will interfere with the regular work of the school.

B. A. HINSDALE.

PART I

HISTORY OF PENNSYLVANIA

CHAPTER I

THE FIRST SETTLERS ON THE DELAWARE

1. Origin of the English Claim to American Territory.—In the year 1497 John Cabot, an Italian navigator, sailing under a commission given to him by Henry VII. of England, discovered the continent of North America. He landed on the eastern shore at one or more places, raised the English ensign, and took possession of the new land in the name of his royal patron. He made a second voyage to the same coast the next year, and still farther extended his discoveries. These voyages laid the foundation of the first English claim to territory in the New World. This was in conformity with the principle called the right of discovery. But it was more than a century before England founded permanent American settlements. How much of the continent Cabot actually saw is not clear, but he probably skirted the coast from Labrador to the Carolinas; at all events the present territory of Pennsylvania lay within the limits of the English claim growing out of his discoveries.

2. Origin of the Dutch Claim.—Henry Hudson, an Englishman employed for the time in the Dutch

service, made a notable voyage to the New World in 1609, in the course of which he touched at numerous points between Casco Bay and the Capes of Virginia. On the 28th of August he discovered and entered the mouth of Delaware Bay and spent a few hours within its waters. Then he continued northward, entered the harbor of New York and discovered the river that bears his name. Other navigators in the same service soon followed Hudson and made other discoveries. Thus Captain Hendrickson, in 1616, explored Delaware Bay and River, going as far north as the mouth of the Schuylkill. The result was that Holland, or the Netherlands, as the country of the Dutch was then commonly called, laid claim to the whole American coast from the Connecticut River to Delaware Bay, including the adjacent islands. This claim embraced much of what is now Pennsylvania, since it included both sides of the Delaware.

3. New Netherlands.—The Dutch hastened to take possession of their new territories. Their principal settlement was Manhattan, on the island of that name, on a part of the site of the City of New York. As a permanent settlement, Manhattan dates from 1623. From this center the Dutch spread north up the Hudson, east into Long Island, and west into New Jersey. About the same time they began operations on the Delaware. One Captain May, after whom Cape May is named, brought out an expedition in the year just named, which began a settlement called Fort Nassau, at Gloucester Point, on the Jersey shore opposite to the present City of Philadelphia. The Dutch also had establishments further down the river. They pur-

chased of the Indians the Schuylkill Valley, where they built a fort and carried on trade in beaver skins. All the plantations in New Netherlands, it should be explained, were founded and controlled by the Dutch West India Company, a powerful corporation created by the government for such purposes.

4. New Sweden.—Sweden had taken no part in the discovery and exploration of America, and, under existing rules, had no rightful claim to American soil. But her great king, Gustavus Adolphus, filled the Swedes with new ideas and ambitions. Gustavus caught eagerly at the plan of forming a company to promote colonization in America, even calling the enterprise "the brightest jewel of his crown." The king did not live to carry out the plan, but after his death Oxensteirna, Prime Minister of the Queen of Sweden, daughter of Gustavus, undertook to do so. In 1638 two vessel-loads of colonists arrived in the Delaware, and founded Christina, named in honor of their Queen, near the site of the present town of Wilmington, Delaware. Afterwards the Swedes established themselves at other points on the bay and river, some of them in Pennsylvania; they gave the region the name of New Sweden. Trouble began at once; the Dutch held that the Swedes had no shadow of right to the country which they had entered, and called them intruders, but they had not the force to expel them. The Swedes persisted in staying, and might have told the Dutch that they themselves had no right in the country, but were intruders within the dominions of the King of England.

5. Swedes and Dutch in Joint Possession.—The

Swedes soon proved themselves much better colonists than the Dutch. The center of their life was agriculture, while the Dutch took to the fur trade and the whale fishery. They bought lands of the Indians on both sides of the river, multiplied their settlements, and developed their cultivation. Quite poetic are the descriptions of their life that have come down to us—cultivated fields, rich gardens and orchards, cattle grazing in the woodlands or in the natural pastures along the river, and cheerful homes. So successful were they that they got most of the fur trade into their hands. Still they do not appear to have been aggressive, or to have sought to drive the Dutch out of the country. But the Dutch were not happy. The relations of the two peoples were always irritating and often hostile. The two nationalities continued for a time, however, in a sort of joint occupation of the region; the Swedes were the more numerous, but the Dutch were in control.

6. Downfall of New Netherlands. — From the first, England never acknowledged, but always denied, the Dutch title to New Netherlands. Still she did not for a long time take active measures either to expel or to subdue the Dutch colony. But in 1664 King Charles II., by charter, conveyed to his dearest brother, James Duke of York, extensive territories in North America, including the region lying between the Connecticut and the Delaware. The next year the royal Duke sent out an expedition that compelled the surrender of the Dutch territories, including Manhattan, which, at the time, had an arms-bearing population of 250 men. A few years later the Dutch regained con-

trol, but only for a single year, and in 1674 the province passed by treaty into the permanent possession of England. The territory of Pennsylvania now became practically, as it had long been legally, a part of the English dominions in North America.

7. Duke of York's Government. — The heart of the extensive territories that Charles II. conveyed to his brother was the Hudson River and the lands and waters adjacent thereto. This region became the New York of Colonial history. The Duke promptly laid claim to the western shore of the Delaware, both bay and river, on the ground that this shore had been occupied by the Dutch and had been included in their capitulation to him. His grant was expressly limited to the east side of Delaware Bay; but he exercised a moderate jurisdiction over both sides of the bay and river, and actually strove to introduce the code of laws known as the "Duke's laws." The people were considered a dependency of New York, and were sometimes called the Delaware Colony and sometimes the Newcastle Colony.

CHAPTER II

WILLIAM PENN AND HIS PROVINCE

8. Early Years of William Penn.—William Penn, founder of Pennsylvania, was born in London, October 14, 1644. He was the son of Sir William Penn, a distinguished officer of the British Navy, and his wife, Margaret Jasper, an excellent Dutch woman from Rotterdam. Having received the required preliminary training at home and at Chigwell School, he was entered, at the age of fifteen, a student at Christ Church College, Oxford, where he soon took high rank both in the studies and the sports of the place. He did not remain long at Oxford, however, for, falling under the displeasure of the college authorities, he was first fined and then expelled. The cause of his troubles at Oxford was the point upon which his whole after life turned. He had imbibed some of the ideas then afloat with regard to Church and State that conservative men thought very dangerous, and it was these ideas that led him to commit the acts that the authorities thought disorderly and rebellious. More especially, he had heard and been impressed by the preaching of Thomas Lee, a Quaker preacher, although he did not at that time become a convert. It is hard for us to-day to conceive how most men then looked upon the Quakers; suffice it to say, they regarded them as obscure, ignorant, fanatical people, running into all manner of absurdities, defying all

authority, and bent on turning the world upside down. Their manners, speech, and garb subjected them to ridicule, and their religious faith and practice to persecution. Even the most enlightened nations had not then learned the lesson of religious toleration. England had a state religion and church, and all men who dissented from them were more or less outside the protection of the law and exposed to persecution.

9. Admiral Penn and His Son. — Admiral Penn was an able seaman and an ambitious man of the world; he was not a religious man, but belonged formally to the Established Church; he had prospered, standing high in the public councils and possessing considerable property, as well as holding a lucrative office; while he looked ardently forward to still greater preferment, expecting sometime to be made a peer of the realm. He was devotedly attached to his first-born son, and was even more ambitious for him than he was for himself. Naturally, therefore, when the Admiral heard that his son had become a Quaker, and been turned out of College, he was furious. He received the boy coldly when he returned home, and strove by stern discipline to turn him back to his old ways of thinking and living. Failing in this course, he tried a new experiment; he sent William to the Continent, along with gay and worldly companions, where the youth spent two years in study, travel, and social enjoyment. On his return home he appeared to be wholly weaned from the Quaker manner of life, and his father was delighted. The young man plunged into worldly affairs, and actually served some time in Ireland as a soldier. But this did not last; various

causes again turned his attention to the new religion, and in 1618, when he was twenty-four years old, he avowed himself a Quaker. Indignant, his father promptly turned him out of doors. But William did not waver; the father, for a time, kept him at a distance; but finally his heart softened, he forgave his son, and received him back into his home again. These happy relations continued until the Admiral's death, which occurred in 1760. He left all his property to William, reserving only a life estate to the widow and mother. The inheritance was considerable; the landed property alone brought a yearly income of £1,500, about $20,000 of our money; while the state owed the Admiral a large sum for arrears of salary and money borrowed. On this last item, as we shall see, important history turns.

WILLIAM PENN.

11. Penn's Character and Life.—Nature laid out William Penn on a large pattern. Physically, he was of full size, having a well-proportioned, vigorous frame, and of singular beauty. Mentally, he early gave promise of unusual parts. In particular, he had ability to acquire knowledge and to assimilate ideas. For

a man of his station he may be called learned; he spoke and read several languages, and was well acquainted with the important subjects of law, government, history, theology, and philosophy. He fully embraced all the leading ideas of the Quakers; the inner light, the rights of conscience, freedom of thought and speech, peace and good will among men, opposition to oaths, and civil and religious liberty. Still more, he held these ideas not merely as Quaker doctrines, but as ideas put forward on grounds of reason and philosophy by some of the most enlightened men of the world, whose writings he ever delighted to study. Immediately on his conversion he became a preacher, preaching extensively not only in England but also in Holland and several of the States of Germany.

More than this, he wrote and published many books and pamphlets on religion and related subjects. He experienced the persecution to which his people were subjected; twice he was committed to the Tower of London, and twice to Newgate prison—spending many months in gloomy confinement. He adopted the Quaker habit; he used the "plain language" and wore a broad-brimmed hat, which he refused to take off even in the presence of the King; still he preserved the dignity and refinement of manners that he had learned in his boyhood in the cultivated circles where his father moved. While firm in the faith, he did not run into the excesses of conduct that often marked his brethren; while grave, serious, and denying the world, he did not become sour, morose, or ascetic. On the other hand, he continued a man of business and took

a keen interest in public affairs; at times he was deeply involved in politics and even became a courtier. With all the rest, he was a man of high probity, generous, just, and kind-hearted to a fault. These mental and moral qualities deserve this particular mention because they were among the causes that molded the Quaker character, and, through that character, influenced the history of Pennsylvania.

Penn's character is further shown by the counsel concerning his children that he gave to his wife on the eve of his first sailing for America: "For their learning be liberal. Spare no cost; for by such parsimony all is lost that is saved; but let it be useful knowledge, such as is consistent with truth and godliness, not cherishing a vain conversation or idle mind, but ingenuity mixed with industry is good for the body and mind, too. I recommend the useful parts of mathematics, as building houses or ships, measuring, surveying, dialling, navigation; but agriculture is especially in my eye; let my children be husbandmen and housewives; it is industrious, healthy, honest, and of good example."

11. Penn Purchases Pennsylvania. — In June, 1680, Penn prayed the King, Charles II., to grant to him the territory in America with which his name is doubly identified. In his petition he spoke of his desire to enlarge the British Empire, to christianize the Indians, and to transport an ample colony to those parts. He had other plans that lay still nearer his heart, but these he shrewdly kept to himself. The King favored the petition and referred it to his Privy Council. Here there were objections and delays, and it was not until

March 4 of the next year that the patent was signed.[1] This document declares the royal motives in granting it to have been favor to Penn and regard for the memory of his father. A deed must mention some consideration, paid or to be paid, for the property conveyed; and this one named two beaver skins, to be delivered at Windsor Castle every year on the first day of January, and one-fifth part of all the gold and silver ore that might be found in the province. It was well understood that the land was full payment for the money, some £16,000, that the state owed to Penn, but no mention was made of the fact in the patent. Penn preferred to call the territory New Wales, but one of the royal secretaries, who was a Welshman, objected to having a Quaker colony called after his country. Penn then proposed Sylvania, and to this the King prefixed Penn in honor of the Admiral, thus making the name Pennsylvania, Penn's Forest Land.

12. Penn's Plans and Motives. — Pennsylvania was a magnificent domain for any man to own. Such was Penn's own view; moreover, he was no doubt glad to get his pay from the King; but he looked at his new possession from a political and moral rather than from a pecuniary point of view. He saw in it a provi-

[1] "The document itself—the germ of a great nation—is now in the office of the Secretary of Pennsylvania; it is written on rolls of strong parchment in the old English handwriting, each line underscored with red ink; the borders are gorgeously emblazoned with heraldic devices, and the top of the first sheet exhibits a finely executed portrait of His Majesty, still in a state of excellent preservation."—W. H. Dixon, *William Penn*. London, 1851, p. 229. Naturally, as this writer says, "the document is regarded with a sort of veneration."

dential opening to carry out some ideas that he had long been forming. As early as 1656 a few Quakers arrived in America; and from about that time some of the most influential men in the body in England questioned whether an asylum might not be opened there in which they and their brethren could escape the persecutions to which they were subject at home. George Fox, the founder of the body, made some inquiries into the matter in 1660, and Penn himself, as he reported afterwards, had "an opening of joy as to these parts" while he was still at Oxford. New Jersey, with which Penn became closely connected, was for a time looked upon as offering the possible asylum; but New Jersey was not destined to be the promised land of the Quaker. Penn even looked upon himself as divinely raised up to found a new government, on new principles, in the New World. He wrote to a friend the day after the charter was signed, that he was about to institute a "holy experiment" and to set up "an example to the nations." It was his purpose from the first to found a Christian commonwealth, where men, and especially Quakers, could enjoy their political, civil, and religious rights, and where peace and good will to men should abound. Or as he himself expressed his own noble purpose afterwards: "I went thither [to America] to lay the foundation of a free colony for all mankind, more especially those of my own profession, not that I would lessen the civil liberties of others because of their persuasion, but screen and defend our own from any impairment on that account." Again he said he went to Pennsylvania for the Lord's sake. God, he said, had given him the

country "in the face of the world," and "He would bless it and make it the seed of a nation."

13. Terms of the Charter.—The charter for Pennsylvania may be considered from two points of view. First, it conveyed to Penn, his heirs and assigns, the soil of the province as property for him to dispose of as he saw fit—sell or lease, give away or retain; only it must continue to be a part of the King's dominions. Secondly, the charter clothed the Proprietor with full powers of government, subject to certain conditions. One of these conditions was that the freemen, or their deputies, should have a voice in making the laws; except that in cases of emergency the Proprietor could declare ordinances without consulting them. All laws must be consonant with reason and be conformable to the laws of England; and, to make sure that they were conformable, it was provided that they should, within five years of their passage, be submitted to the Crown for its approval. The Proprietor, with the advice and consent of the freemen, could levy and collect necessary taxes and duties and provide for raising troops for the defense of the province.

He could himself act as governor or appoint a lieutenant or deputy to do so; and either he or his deputy, acting in this capacity, could pardon all crimes but treason and willful murder, and even murderers and traitors he could reprieve until the King's pleasure was ascertained. He could appoint such executive and judicial officers as he thought called for, but the Crown reserved the right to receive, hear, and determine appeals from all judgments rendered in the local tribunals. The Proprietor must appoint an agent to

represent him in London, in respect to matters affecting the administration of the colony.

14. Character of the Government.—According to our ideas this was an extraordinary kind of government, but it was not an uncommon one at that time. It belonged to the class of governments known in our history as proprietary colonies, of which Maryland and New York, and the Carolinas for a time are examples. In these colonies the proprietor, or proprietary, was a vice- or sub-king, wielding with more or less limitation royal powers. He was a feudal lord in all essential particulars; what is known in English history as a count palatine. It almost makes one's head swim to think that once one man owned all Pennsylvania, and that, within certain limitations, he could do with it as he pleased. Pennsylvania was much the most successful of all the proprietary governments created by the English king in America. Save for an interval of two years, this government lasted until the American Revolution swept the Proprietors away; that is, from 1682 to 1776, a period of ninety-four years.

CHAPTER III

FOUNDING THE COMMONWEALTH

15. Plans Laid.—Penn's purchase and project were soon noised abroad, not only at home but on the Continent. In 1681 Penn published "certain condiditions or concessions" between himself and those who were adventurers and purchasers in the province, and the next year he sent out a frame of government for Pennsylvania. These publications at once attracted attention in Holland and in Germany, as well as in Great Britain. Nor was this interest confined to Quakers; others were drawn to the "holy experiment" as well, and Penn was at once overwhelmed with the details of business incident to planting a new colony on a large scale in the New World.

16. The First Emigration, 1681.—It was not long until three ships, loaded with emigrants, were ready to sail for the Delaware. It is said that when these three ships lay in London harbor "making ready for their protracted voyage, fraught with some danger and every possible discomfort," "past them came the royal barge, its silken banners fluttering in the breeze; and the King, noticing the swift bustle of departure, asked what ships they were, and whither they were bound. On being told that they bore the first Quaker emigrants to Pennsylvania, Charles had the barge rowed closer, and gravely, yet with mirthful

eyes, bestowed his princely blessing on the decorous groups, who stood, their heads covered, but their hearts filled with serious emotion, to receive it." One of the three vessels encountered storms and wintered in the West Indies; the other two duly arrived at their destination, and the new-comers were welcomed by the hospitable Swedish settlers. This was late in the season.

Within a few weeks after the signing of the charter, Penn had sent out his cousin, Colonel William Markham, as his lieutenant, to take possession of the province, instructing him to cultivate friendly relations with the Indians, to select a convenient spot for the Governor's mansion, and, if possible, to come to an agreement with Lord Baltimore as to their common boundary. Markham showed ability in his office, but could not bring Baltimore to a settlement. One of the three ships, too, carried out commissioners that the Proprietor had authorized, in his name, to buy land of the Indians, and to make treaties, and arrange a course of trade with them. Thus fortune smiled upon the "holy experiment" at the opening. The reports that the first emigrants sent back to England were highly colored. The following is quoted from a letter that Governor Markham wrote to his wife, in December, 1681:

"It is a very fine country, if it were not so overgrown with woods, and very healthy. Here people live to be above one hundred years of age. Provisions of all sorts are indifferent plentiful, venison especially; I have seen four bucks bought for less than 5s. The Indians kill them only for their skins, and if the Chris-

tians will not buy the flesh they let it hang and rot on a tree. In the winter there is mighty plenty of wild fowl of all sorts. Partridges I am cloyed with; we catch them by hundreds at a time. In the fall of the leaf, or after harvest, here are abundance of wild turkeys, which are mighty easie to be shot; duck, mallard, geese, and swans in abundance, wild; fish are in great plenty. In short, if a country life be liked by any, it might be here."

17. Penn's First Visit to America.—Penn's first purpose was to become an emigrant himself, and to make his own home in Pennsylvania; but business and political causes compelled him first to defer and then to abandon the plan. Still he was resolute in at least visiting the province. So, having completed his arrangements, and leaving his wife and children behind him, he sailed in the ship *Welcome*, on the first of September, 1682, and after a miserable voyage, during which nearly one-third of the 100 passengers died of smallpox, he landed at New Castle, where he trod for the first time the soil of the world that had so long engaged his thoughts. The day was October 27. He was warmly greeted by the motley population of the place. The next day the legal formalities of taking possession of the province were gone through with, in the presence of the people assembled in the Dutch court house. The Duke of York's agents now formally surrendered the territory, both Pennsylvania and Delaware

These ceremonies over, Penn ascended the river to the Swedish town of Upland, the most important place in Pennsylvania, where he landed. One of his

first acts was to change the name to Chester, in honor of the birthplace of one of his associates. Soon a general assembly convened in the Friends' meeting house, prepared to enact all necessary legislation. Penn had done his work so well that there was little for the assembly to do; some changes were made in the Frame of Government and the laws prepared in England, and some additions were made, and then the

OLD SWEDES' CHURCH AT WICACO.

whole was adopted. In three days these primitive legislators had finished their work and adjourned. The wheels of government were now in full motion. The character of the government that was thus inaugurated will demand our attention in a future chapter.

Penn found on the west bank of the Delaware 2,000 or 3,000 people—Swedes, Dutch, Germans, Welsh, English, and an occasional Frenchman. Much the larger number of these people were in Delaware. The Swedes had churches at Ticinum, Wicaco, and Christina; the Dutch a church at New Castle. Penn's char-

acter was well known in advance of his coming, and everywhere the people warmly welcomed him. Across the river in New Jersey some settlements, mainly of Quakers, had already been established.

18. Philadelphia Founded. — Among the things that early engaged Governor Penn's attention was the founding of a capital for his province. For this purpose he made choice of a site that Nature had plainly marked out, viz., the neck of land lying between the Delaware and Schuylkill Rivers. This decision made, he first bought off the few Swedes who had established themselves on a part of the ground and then worked out his plan. He laid out the capital on a grand scale, providing large lots for the houses, wishing, as he said, to see a "green country town." He named it in advance Philadelphia, the City of Brotherly Love. There were numerous residents upon the ground before a house had been built, for Penn's visit had greatly hastened emigration. Within a year 100 houses had been erected, and within two years 600 houses.

19. Penn's Treatment of the Indians. — Penn's religion led him to take a favorable view of the Indian character. He believed

> "that in all ages
> Every human heart is human,"

and he made this faith the basis of his Indian policy. He looked upon them as human beings, children of the same God as himself, and treated them as such. What may be called, perhaps, his sentimentalism about the Indian race is shown in his belief that they were of Jewish stock, descendants of the ten lost tribes, a

belief which he wrote learnedly to establish. His just treatment won him the confidence of the savages, who affectionately called him Onas and cherished his memory until long after he was laid in his grave. He paid them for such of their lands as he wished to use, treated them with justice and kindness, and cultivated peace. The officers whom he had previously sent over had prepared the way. The policy that he pursued was the main reason why the colony was not disturbed by savage wars in its infancy, as most or all of the other colonies were. Not a drop of Quaker blood, it has been said, was ever spilled by a Red Man in Pennsylvania.

20. The Treaty Made under the Elm.—Not long after his arrival, as the story runs, Penn met the Indians under a spreading elm tree at Shackamaxon, and entered into a treaty of peace and friendship with them that is the most celebrated treaty of the kind in the whole history of the country. It has long been a favorite theme for poets, orators, painters, historians, and philanthropists. Benjamin West, the American artist, painted a picture of the scene that was once much admired. Miss Repplier has given this semi-humorous description of the picture, or rather of the scene that it portrays:

"The 'Treaty Elm,' spreading its mighty branches, as proud and as honored as England's 'Royal Oak.' William Penn, years older than his age, dressed as he never did dress in early manhood, benignantly blessing everybody. Venerable Friends, in the loosest and longest of coats, holding a parchment deed of mighty bulk, the document which has been lost for more than

two hundred years. Boxes and bales of goods scattered on the sward. Indian braves solemnly inspecting their contents. Squaws and pappooses grouped picturesquely in the foreground. The whole composition suggesting an entertainment midway between a church fair and an afternoon tea, placid, decorous, satisfactory, and sincere."

The tree was blown down in 1810 and was found to

TREATY WITH INDIANS.

be 233 years old. Upon its site the Penn Society of Philadelphia erected a commemorative monument that bears the following inscription: "Treaty Ground of William Penn and the Indian Nation, 1682. Unbroken Faith."

21. Other Features of the Visit. — Only a few of

the many other interesting features of Penn's visit to America can be mentioned. He visited all the neighboring colonies, taking pains wherever he went to search out the Quakers and preach to them. He was not more successful than Markham had been in coming to an agreement with Lord Baltimore about the boundary. He called together a second assembly, which still further perfected the government. Steps were taken to found schools, a printing establishment was set up, and a postal service organized. Lands were surveyed and a land policy established. With all the rest, Penn presided at the trial of a witch, who was found not guilty. The Proprietor cheerfully laid aside the most of the power with which his charter clothed him, his purpose being to found a free and self-governing commonwealth.

22. Penn's Return to England.—Penn had now been in America nearly two years, and his affairs in England urgently needed his attention. Lord Baltimore was pressing the boundary dispute in London. He had laid the foundations of the colony wisely and well, and could now be spared. So he arranged matters relating to the government, took his leave of colonists and Indians, and sailed for home. Not unnaturally, he took much pleasure in contemplating what he had done. He wrote to one correspondent in England: "I must without vanity say I have led the greatest colony into America that ever any man did on private credit." And to another: "With the help of God, and such noble friends, I will show a province in seven years equal to her neighbors in forty years' planting."

CHAPTER IV

THE COLONIAL GOVERNMENT

23. Political Provisions of the Charter. — The charter of 1681, it will be remembered, gave to William Penn and his heirs, and to his or their deputies and lieutenants, absolute power to enact and publish laws for the government of the country, "according unto their best discretion, by and with the advice, assent, and approbation of the freemen of the said country, or the greater part of them, or of their delegates or deputies." This certainly was giving the Proprietor a very wide range of discretion. We are now to see how, under the conditions actually present in the province, he exercised his power.

24. Conflict of Principles. — It will be seen at once that the two main charter provisions were in their tendencies and necessary effects contrary one to the other. The Proprietor was to be a feudal lord exercising legislative, executive, and judicial functions. But in enacting laws he should take the advice, assent, and approbation of the freemen of the province, or of their representatives, who should be called together as often as necessary for this purpose. This made the Assembly of equal rank with the Proprietor in enacting laws. Still further, the Assembly, through its control of the public purse, would be in a position to influence more or less the executive and judicial branches of the government. In a word, the charter

contained a monarchical element and a democratic element; and the clashing of the two for the most part made up the political history of Pennsylvania to the very end of the Colonial period.

25. Frames of Government.—The Proprietor would have failed wholly to accomplish his purpose, unless he had attracted to Pennsylvania a desirable emigration. Moreover, there was much competition for such emigration, for the doors of the older colonies all stood open. So he was obliged to do, what indeed his character constrained him to do, offer favorable terms to prospective emigrants. Soon after Penn's arrival in the province, that is, in February, 1683, he and the Assembly representing the province and the territories on the Delaware agreed upon and published the first Frame of Government, so called, together with certain laws, all of which had been previously considered and partially matured in England.

This Frame did not prove to be satisfactory; it was superseded by a second one in 1696, and this by a third in 1701. These frames were, in fact, brief constitutions of government, standing to the colony in much the same relation that the successive constitutions of later times stood to the State. They were fundamental laws, and might also be compared with the charters given to the charter colonies. The Frame of 1701 continued in force until it was abrogated by the American Revolution.

26. Frame of 1701.—In this Frame or constitution William Penn, on his part, granted and confirmed unto the freemen, planters, adventurers, and other

inhabitants of Pennsylvania and the Delaware territories certain enumerated liberties, franchises, and privileges, so far as in him lay, to be held, enjoyed, and kept forever. The speaker of the Assembly and members of the Council, on the part of the province and territories, approved of and agreed to the same and thankfully accepted it from their Proprietor and Governor. The Frame guaranteed freedom of religious faith and worship to all persons who believed in one Almighty God, the Creator, Upholder, and Ruler of the world, and also lived quietly under the civil government established; and the right to hold office, so far as religious qualifications were concerned, to those who also professed to believe in Jesus Christ the Savior of the world.

27. The Assembly.—The charter given to Penn made an assembly representing the freemen of the province practically necessary, for it was only in this way that the Proprietor could govern with the consent of the freemen: a government for Pennsylvania could not be a pure democracy. Accordingly all the frames of government provided for such a body. The Frame of 1701 apportioned the members among the counties and the City of Philadelphia. It said the members should be elected once a year, and that there should be an annual session. It provided that the Assembly should have power to choose its own speaker and other officers, pass upon the qualifications and elections of its members, adjourn, appoint committees, prepare bills to be passed into laws, impeach criminals, redress grievances, and have all other powers and privileges of an assembly according to the rights of

free-born subjects of England, and as was usual in the King's plantations in America.

28. The Council.—The status of this body was somewhat fluctuating, owing principally to differences of opinion concerning it between the Proprietary and the Assembly. For short intervals, and always during vacancies in the gubernatorial office, the Council exercised the executive powers of the province. Until 1700 it was a part of the legislature, but not after that time. At first, too, the Council sat as a court and exercised judicial powers, but these functions gradually fell into the hands of the regular judiciary, as this was progressively developed. The members were commonly appointed by the Proprietary, who naturally made choice of the more conservative citizens, well known men of standing, who were likely to be devoted to the interests of the Penn family. Down to 1763, when John Penn became governor, the Proprietary instructed the deputy-governors to perform no executive acts without the advice and consent of the Council. This body often acted as a mediator between the Proprietors and the Assembly.

29. The Deputy-Governor.—As we have seen, the Proprietor could act as governor himself or appoint a deputy to represent him. When William Penn was in the province, he acted as governor himself; so did two of his successors for short periods towards the end of the Colonial period. For the rest deputy-governors were the rule. Not only were they appointed by the Proprietary, but in a general way they were subject to his instructions. When the separation of interests between the Proprietary and the peo-

ple began to appear, which it did quite early, the governors and the Assembly took different lines. The first were aristocratic in their tendencies, the second democratic. Much of the political life of the colony consisted of the contest between the governors, standing for the Penns, and the assemblies, standing for the people. Much of the most important legislation was a compromise between the two forces; for the governors exercised the right of veto with freedom until the colony became the State.

30. The Judiciary.—The charter gave to the Proprietor and his successors the power to establish courts of justice, determining their procedure, appointing judges, and endowing them with suitable powers. So much was unmistakable. Still, throughout nearly the whole period the subject of the judiciary was involved in controversy between the Assembly and the Proprietors and their representatives. Progressively, a system of courts was developed consisting of three grades, county courts of quarter sessions, the common pleas, and the supreme provincial court. The Proprietor appointed the justices of the peace and the judges, who held office during his pleasure; but the Assembly paid them their salaries. Various attempts were made to have the judges elected by the freemen and to establish good behavior as the term of office, but they all failed. After 1706 the sheriffs and coroners were elected. Appeals lay from the provincial courts to the Crown.

At first the only capital crime known to the law of Pennsylvania was murder; but in 1718 it was enacted that high treason, murder, robbery, mayhem, arson,

and six other crimes should be made capital, and fines, whipping, branding, and imprisonment were provided for lesser offenses. Afterwards counterfeiting bills of credit and current coin was added to the list, which continued down to the Revolution. Certainly this was getting far away from the gentle and humane spirit of William Penn.

31. Representation and Suffrage.—The first assembly, held at Chester in December, 1683, was a purely democratic body, as many of the freemen attending as saw fit to do so. Afterwards, however, the Assembly was a representative body, the counties and the City of Philadelphia constituting the units of representation. For the most part the body was a small one, not containing more than thirty-six members. The elector, before he could vote at any election, was required to declare, if challenged, that he was twenty-one years of age, and a freeholder for the county in which he offered his vote, having fifty acres of land or more well seeded, and twelve acres thereof or more cleared; or that he was otherwise worth fifty pounds money of the province clear estate, and had been resident therein for the space of two years, and that he had not before been polled at this election. There was no religious test for voting.

32. Oaths and Affirmations.—The Quakers took the command of Jesus, "Swear not at all, but let your communication be yea, yea, and nay, nay," in the strict literal sense, and so refused either to take or administer judicial oaths. This scruple of the Quaker conscience would have caused no trouble in Pennsylvania if the Quakers had been left wholly to them-

selves. But they were not. In the first place there was a large non-Quaker population in the colony that had other ideas, while the laws of England required oaths under certain conditions. The question was very troublesome down to 1725, when, at last, a settlement was reached that allowed the Quakers to declare or affirm instead of swear. The Scotch-Irish, too, were unwilling "to kiss the book," that is the Bible, in taking an oath, and the law had also to be accommodated to this scruple.

33. Civil and Religious Liberty. — To found a commonwealth in which the people should enjoy their full civil and religious rights was the heart of the "holy experiment" undertaken by William Penn. While he did not succeed to his full expectation in accomplishing his purpose, he still gave the people of Pennsylvania as large liberties as any colony enjoyed, and larger than fell to the lot of most of them. Freedom of worship was extended to all Christians but not to others; Pennsylvania was to be a Christian state. Again, the oath required of office-holders excluded from office all Catholics, Jews, and Socinians. Once more, and perhaps strangest of all, the law relating to the administration of oaths worked to exclude many Quakers from certain offices, principally of a judicial character. No loyal Quaker could administer an oath more than he could take one; and so he was incompetent to fill an office where the administration of oaths was a part of his official duty.

34. Church Discipline.—To govern the Quakers of the province was, generally speaking, a very easy undertaking. They were peaceable, honest, and obe-

dient to the law. Besides, no church, perhaps, has done more than the Quaker Church directly to lighten the labor of government. It has been very justly said by one of their number: "Had all the inhabitants been Friends and amenable to their discipline, very little civil government would have been needed in internal affairs. The work of the legislature might have been devoted mainly to questions involving titles, etc., to property, and courts of law would have been shorn of nearly all their criminal and much of their civil business, while sheriffs and policemen, jails and punishments, might almost have been omitted as unnecessary. Indeed, this was practically the case for some decades in Pennsylvania in country districts, where the Quaker element constituted nearly the whole population." For example, difficulties between individuals were commonly settled through the church agency; the monthly meeting looked after the members to see if they kept their promises and paid their debts, while the church looked after and provided for its own poor.

CHAPTER V

PROPRIETARY INTERESTS AND POLICY

In this chapter it will be impossible to observe a close chronological order of arrangement, owing to the nature of the topics to be handled. But as we deal with general facts or views this will make little difference.

35. Land Policy.—The charter vested in Penn and his successors the soil of Pennsylvania and all its appurtenances—the islands, lakes, rivers, fishing rights, mines, and their products, except that the Crown reserved one-fifth part of all gold and silver ore that might be found or produced. The Proprietor held the property directly of the King, and could give those who should become interested in it such title or titles as he saw fit, except that he could not alienate it from the British Crown. In practice, the lands were divided, generally speaking, into three parts: (1) The common lands, which composed the major part of the soil; (2) The manors that the Proprietary retained, consisting commonly of one-tenth part of the best land in any given tract; (3) The private estates of the individual proprietors, which they acquired by purchasing them of the estate or of earlier purchasers. The common lands were sold at prices that changed from time to time, as did certain of the other terms and conditions. As a rule, however, the sales were not absolute or final, but were made subject to a per-

petual annual charge, in addition to the so-called price, which was called a quit-rent.

It is obvious that the reservation of perpetual rents to be paid by the owners of land in Pennsylvania would strongly fortify the Proprietor in his position as Lord of the Manor, since it would make them all his tenants forever. It was a feudal arrangement and in perfect keeping with the principles of proprietary government.

36. Mode of Making Sales.—Prices, etc.—Sales of lands were made through the land office, which was, in one view, private office of the Penns, and in another view a public office belonging to the province. The Penns, however, always resented interference with it as an interference with their private business. The administration of the land office consisted of a secretary, who was also secretary of the Commonwealth, a surveyor general, deputy surveyors, and commissioners of property. Lands were not surveyed in advance of sales, but following them. Deeds ran in the name of the Proprietary and bore the great seal of the province.

As stated, the terms on which lands were sold by the Penns fluctuated. In the beginning special terms were offered to first purchasers. Later the common rate of sale was five pounds per 100 acres and one shilling quit-rent a year. In 1719 this rate was doubled; still later it was made fifteen pounds ten shillings currency per 100 acres, and a quit-rent of one-half-penny sterling per acre. Next the Proprietors, finding that this high rate caused emigration from the colony to other colonies where lands were

cheaper, reduced it. After 1765 the common rate was five pounds to 100 acres and a quit-rent of one penny sterling per acre annually.

37. Penn's Temporary Loss of the Province.—We have seen how Penn was obliged to hurry home to England in 1684, to defend his chartered rights against Lord Baltimore. Here his occupation in public affairs and the state of his own private business long detained him, although he longed to take up his residence in Pennsylvania. He was on good terms with Charles II. and James II., who remembered their obligations to his father, Admiral Penn, but when William and Mary came to the throne there was a change in his relations at court. The very fact that he had been on good terms with Charles and James prejudiced him in the eyes of the new sovereigns. So in 1692 the Crown took the province wholly out of his hands, appointing Col. Fletcher governor, but restored it to him two years later.

38. Penn's Second Visit.—Penn made his second visit to America in 1699, arriving with his family late in the year. Immediately he took up the cares of government. "He traveled over the country on horseback, preaching at Quaker meetings, visited the Susquehanna, Maryland, and New York, and the rest of his time was filled with meetings of Council and Assembly, consultations and amusement, and the planting and care of his country seat, Pennsbury Manor." At this seat, which was twenty miles north of Philadelphia, on the river, he lived in much magnificence, quite surpassing all the other Colonial governors of the time. As the writer just quoted says:

"He took great pleasure in his barge, in which he was rowed to and from Philadelphia, and he also had a great coach, a light calash, a sedan chair, and saddle horses for his wife and children. They all went to fairs, or Indian canticoes. When he felt unwilling to meet the Provincial Council at Philadelphia, he sent his barge to bring them up to dine with him. At a feast he gave the Indians at a great table under the trees in front of his house, there are said to have been one hundred turkeys, besides venison and other food. There is also a pleasant tradition of his meeting a little barefoot girl as he was riding to meeting, and taking her up behind him on his horse. He lived as he was — an unceremonious, broad-minded man, of great acquaintance and plentiful estate."

39. Attempts to Sell the Province. — William Penn had not been long engaged in his grand scheme when he became seriously embarrassed financially. In England his expenses increased and his income fell off, while Pennsylvania entailed upon him enormous expenses. At the same time that his quit rents remained unpaid he was paying the salaries of the deputy-governor and others of the officials. "A man who attempts to pay the government expenses of a small empire, and at the same time lead the life of a courtier and traveling preacher, must needs be very rich," as one writer has said. Penn estimated that during the first twenty-five years of his proprietorship the colony cost him £64,000 more than he got out of it. He wrote in England: "I am a crucified man between injustice and ingratitude there, and extortion and oppression here." He sought relief in attempts to sell

his political rights and powers in Pennsylvania to the Crown, which would still have left him the owner of the soil that remained ungranted. In 1712 he had nearly consummated such a sale for £18,150, when he was smitten by disease and rendered incapable of completing the arrangement. His successors also made unsuccessful attempts to sell. About 1732 outside parties offered £60,000 for the whole of the Penn interest in the province, but for some reason the sale was not concluded.

40. Penn's Last Days.—In 1701 Penn was again called home to England by his public and private interests. Misfortunes now multiplied upon him. One attack after another was made on his charter. The disputed boundary question remained unsettled. He became deeply involved in debt. His son Springett caused him much anxiety by his evil courses. There were political troubles in Pennsylvania, and his rents went unpaid. While large-minded and generous, Penn still thought his colonists were very ungrateful for what he had done for them. His last days were very sad. In 1712, while seeking to negotiate the sale of his government to the Crown, he was smitten by apoplexy and rendered incapable of doing business. He lingered until 1718, but his mind was clouded. His wife, with the assistance of friends, managed his business affairs. This faithful woman wrote of him a short time before his death: "Mr. Penn was very sweet when I kept the thoughts of business from him." William Penn is buried not far from Chalfont, near Stoke Pogis, where the poet Gray, author of The Elegy, sleeps in the church yard that he rendered famous.

Some years ago an attempt was made to remove Penn's remains to Pennsylvania, but it was unsuccessful.

41. The Young Proprietors.—William Penn left all his affairs in a very confused state. He was deeply involved in debt, and his interests in Pennsylvania were covered by a mortgage. Besides, there were two sets of heirs — the descendants of his first wife, Gulielma Springett, and of his second wife, Hannah Callowhill. There were sharp contentions among the heirs as to the settlement of the Proprietary estate. The death of some and the concessions made by others facilitated a settlement, and finally Pennsylvania, both government and ownership, became vested in the sons by the second wife, John, Thomas, and Richard Penn, who are known in history as the Young Proprietors. For a time Mrs. Penn was in effect the Proprietor of Pennsylvania as executrix and guardian of the children; "probably the only instance in history," it has been said, "of a woman occupying the feudal office of lord proprietor of such a great province."

The Young Proprietors never enjoyed the popularity in Pennsylvania that their father commanded. They became alienated from the Quakers in religious matters, and were thought to be aristocratic, rich, and grasping. Like their father, however, they had their own troubles, some of which will be mentioned on later pages. Sometimes they resided in Pennsylvania, sometimes in England.

42. Controversies about Lands. — The land administration of the province was attended by much confusion and dissatisfaction. The quit-rents were

obnoxious to many purchasers and efforts were made to abolish them, but these the Penns always successfully resisted. The rent rolls were not always carefully kept, purchasers often objected to paying their rents, and there was a constantly accumulating mass of unpaid rent accounts, which became the cause of much misunderstanding and bitterness of feeling. Owners of lands frequently wished once for all to pay their rents, that is, to buy them up and cancel them, but the Penns, as a rule, strenuously resisted such applications. Sometimes the whole price of land was in the form of rents.

Again, there was controversy as to the object of the quit-rents, the Assembly contending that they were originally intended to meet the expenses of government, and so to reduce taxation or to make it unnecessary, but the Penns denied this view of the matter and held that the rents were their own Proprietary perquisites. These questions, while of a business nature, were all drawn into Colonial politics. Land speculators made much trouble, while settlers frequently occupied lands that they had never bought, "squatted" as it is now called, and it was found difficult to dispossess them. Sometimes settlers crowded into lands that the Indians still claimed for their own. When the Scotch-Irish and German emigrations became large, and the frontier was pushed farther into the wilderness, trouble with the Indians and "squatting" greatly increased. In 1726 it was estimated that 100,000 people were settled on lands in the province to which they had no shadow of right.

The value of the Proprietary interests in Pennsyl-

vania previous to, and at the time of the Revolution, was the subject of much disputation. The following is a summary statement of the principal items:

The original extent of the estate was estimated at 27,955,000 acres, of which 6,363,072 acres had been disposed of in one way and another before 1776.

The gross sum of money received for lands from 1701 to 1778, not counting money received for manors after 1757, was £688,486. The quit-rents during the same time amounted to £182,240, but of this sum £118,569 was still due, and, with the exception of that due on manors, was declared void.

In 1776 common lands were usually sold at £10 per 100 acres. Computing the lands remaining unsold in 1776 at this rate, their value was £2,139,212.

In 1732 the annual quit-rents amounted to £567; in 1769 to £4,595; in 1776 to £10,204.

43. The Land Office.—At present this office is one of the bureaus in the State Department of Internal Affairs. It contains, along with much other matter, the records of all past titles to lands in the State, as well those given to the Proprietors and the Commonwealth as those given to purchasers or other grantees by them. This office manages such of the public or State lands as still remain undisposed of—some small and scattered tracts.

44. James Logan.—James Logan was born in Ireland. He accepted Penn's appointment as secretary of Pennsylvania in 1799, and afterwards filled numerous important offices in the province. He was an accomplished scholar and filled his numerous offices with zeal, ability, and judgment. He was a

man of high character, cultivated tastes, and belonged to the aristocratic or Proprietary party in the colony. He was always a great friend of the Indians, and it is said that Logan, the celebrated Indian chief, was named after him.

45. David Lloyd.—The Welshman, David Lloyd, was sent by Penn to Pennsylvania in 1686 as attorney-general. He was a man of ability, learning, and pleasing manners, and a lawyer by profession. He held many offices, served in numerous assemblies, and was often the speaker of that body. Finally, he attained to the office of chief justice of the province. He was a democrat by principle and very determined in his purposes. The principal fact of interest about him here is that he was long the leader of the anti-proprietary or democratic party, in which capacity he was pitted against James Logan, the leader of the opposing party.

46. Delaware.—The Duke of York claimed the present State of Delaware, on the ground that it was an appendix to New Netherlands, and his brother Charles II. formally granted it to him in 1683. Two years later, when the Duke became King, the title vested in the Crown. Still in 1682 the Duke deeded the territory to Penn, and afterwards conveyed to him the title that he received from his brother the following year. Penn's title was not considered wholly satisfactory, but it was good enough as long as the Crown did not interfere. The district was called the Lower Counties and sometimes the Territories on the Delaware. At the meeting of the first Pennsylvania assembly, the three counties appeared by their representatives and

asked to be annexed to the northern province. The mere fact that Penn owned the territory did not make it a part of Pennsylvania, as it lay south of the Pennsylvania line. Penn, however, favored union, the Pennsylvania representatives acquiesced, and an act of union was duly passed, based on the principle that the people should have the same laws and enjoy the same privileges as the people of the larger province. Soon, however, the Lower Counties became dissatisfied, and the union was repealed in 1704, much to Penn's regret. From this time to the Revolution, Delaware and Pennsylvania had the same governor appointed by the Proprietor, but different assemblies elected by the people. In 1775 Delaware came into the Union as a distinct and separate State.

47. Attempts to Abolish the Proprietorship.—Towards the close of the Colonial period there were two well-defined parties in the Commonwealth, the proprietary and anti-proprietary parties, which stood respectively for what were called aristocracy and democracy. The matter at issue was the proprietorship, including both its property and political features. In 1764 Governor John Penn's refusal to approve a money bill that the Assembly had passed started an agitation for the abolition of the proprietorship and the assumption of its rights and powers by the Crown, which would have made Pennsylvania a royal colony. The Assembly prayed the King to take this step, numerous petitions and counter-petitions were signed, and the colony became thoroughly aroused over the issue. Dr. Franklin, who was one of the anti-proprietary leaders, was sent to England to present the case to the King in

Council. This he did in November, 1765, but that body took no action at the time but postponed the subject. By this time the Stamp Act and other measures unfavorable to American interests in general began to divert attention from the subject, both in England and Pennsylvania, and the scheme fell to the ground. The proprietorship stood until it was swept away by the American Revolution.

CHAPTER VI

THE PEOPLE

48. Diversity of Population.—At the time of the Revolutionary War there was a much greater diversity of social elements in Pennsylvania than in any other State in the Union. It was said that every language in Europe was spoken. This was an exaggeration, but it suggests the great variety of nationalities, languages, sects, etc., that had characterized the colony from early times. It will be the purpose of this chapter to describe the principal groups of population.

49. Swedes and Dutch.—The part that these nationalities played on the Delaware before Penn's arrival has been described already. The Swedes, not being reinforced by further emigration, and left to natural increase, were, in time, wholly absorbed into the general body of population. Still the process was not rapid, for we hear long after of a thousand Swedes who could not speak English. Dutch emigrants continued to arrive in small numbers, but the Dutch all became, sooner or later, either English or German.

50. The Quakers.—The people popularly called Quakers, but who call themselves Friends, originated in England at the middle of the seventeenth century. More specifically, they sprang out of the preaching of George Fox, who began his missionary journeys about the year 1648. Fox's central idea was the Inward Light; or, as he put it, "Christ had enlightened all

men and women with His divine and saving light, and no one could be a true believer who did not believe in this light." Around this idea many others were grouped, as the rights of conscience, religious toleration, civil liberty, Christian benevolence, plainness of speech and attire, opposition to war and to oaths, opposition to dogmatic creeds and a professional ministry, the right and the duty of all to speak in religious meetings as the Spirit should give them utterance. Those ideas gave birth to that remarkable type of character which the Quakers have everywhere exhibited. Along with their spirituality, may be mentioned their marked industry and business capacity, intelligence, thrift, shrewdness, moral integrity, commercial honor, interest in politics, even willingness under provocation to go to war, and material prosperity.

Such, in general, were the people who laid the foundations of the Commonwealth of Pennsylvania, and who impressed their character upon it so thoroughly that the mark still remains. At first, they were able to control the colony alone, but afterwards only through an alliance with the Germans. More than any other group, the Quakers contributed to the early success of Pennsylvania.

51. The Episcopalians.—Penn found on his arrival a few Church of England people, and this number continued slowly to increase. The charter gave them the right to establish a parish whenever twenty persons should petition for it, but no parish was established until 1695; Christ Church (Philadelphia) dates from that year. Penn's sons pursued a course that threw

the executive branch of the government into Episcopalian hands. The Church people grew slowly in number, both by emigration and by accessions from other bodies, chiefly from the Quakers themselves. The founding of the College of Philadelphia, which fell into their hands, added to their influence. So they were a growing factor down to the Revolutionary War, which gave them a great backset.

52. Coming of the Germans.—After the English Quakers, the first people to reach Pennsylvania were Germans. At that time Germany was in a disturbed and distressful condition. Internal wars and foreign invasions had almost ruined the country. Large numbers of the people were undergoing the terrors of religious persecution. Penn had a double reason for wishing to attract Germans to his province. He had visited Germany, and had a personal knowledge of the character and condition of the people. He believed that they would make desirable colonists. Furthermore, he wished to open to them a home where they could live in peace and security. The proposals that he sent into the country soon after his charter was granted met with an immediate response.

53. The Sects.—The Germans who found homes in Pennsylvania were divided into two groups, the Sects and the Church people. Following the Protestant Reformation, there sprang up in Germany many small religious bodies that, while separate, still had much in common. They are sometimes called collectively the "Sects" or the "Pietistic Sects." They were deeply religious, but their religion was of a simple evangelical character. They had no formal

system of theology, and no highly organized church government. Many of them inclined to the doctrine of the Inward Light, and all were opposed to a professional ministry. They did not recognize the distinction of laity and clergy in the church. In character they were simple, kind, gentle, peaceable, having many points of likeness to the Quakers. With all the rest, they had some men of great learning among them. These inoffensive people had drawn down upon themselves, largely by their very virtues, cruel persecution. It was natural, therefore, that they should crowd into the door that Penn hastened to open to them. In one or more cases it is said the entire body or sect emigrated to America.

The first to come was a colony of Mennonites, in 1683, who founded Germantown, just above Philadelphia, the first German settlement in the United States. Afterwards others came, Tunkers, Schwenkfelders, and many more. Particular mention may be made of the Moravians, who established themselves at Bethlehem, on the Lehigh River, and zealously took up the work of converting the Indians. They pushed still farther into the wilderness, establishing missions among the savage tribes beyond the river Ohio. In fact, the first white settlers within the present limit of Ohio were Moravian missionaries; the first white child born in the State is said to have been the daughter of one of them. Longfellow's beautiful poem, "The Banner of Pulaski," relates to the Moravian nuns at Bethlehem.

54. The Church People. — The other Germans emigrating to America belonged to one or the other of

the great Protestant churches of the Continent, the Lutheran and the Reformed. Religious persecution was the cause also that sent many of these across the Atlantic. The Lutherans were the more numerous of the two. In the course of time the English government began to stimulate German emigration to America for the sake of settling the country, and a little later ship owners and ship captains followed the example for the sake of earning the passage money. Many of the emigrants sold their services for a term of years in payment for their passage out, and were subsequently sold to satisfy the claim. Horrible cruelty and suffering now attended the emigration, until the government found it necessary to regulate the carrying business. Most of the German emigrants, no matter where they landed, found their way, sooner or later, to Pennsylvania, being drawn there by the liberality of the government.

55. German Influence.—As time went on and the Germans increased in numbers, the provincial authorities were alarmed lest they should overwhelm the colony, and so they proposed to interfere with their free emigration. But there was no cause for fear; the Germans, both Sects and Church people, were industrious, honest, and peaceable men and women, and made good citizens. They not only constituted a large part of the bone and sinew of the colony, but they also contributed to the higher elements of its civilization. The excellence of their farming became proverbial. Some of them established paper mills and printing offices and published books and periodicals. The first Bible to be published in the United States, other than

John Eliot's Indian Bible, was a German Bible printed at Germantown in 1759, nearly forty years before an English Bible was printed in any of the colonies.

Soon after the Revolutionary War, it was proposed to make German the language of law and of the courts in Pennsylvania; and it is significant of the strength of German influence in the State at that time, that the proposition failed by only a few votes in the legislature.[1]

56. The Scotch-Irish. — The Scotch-Irish were Irish in nothing but the name. They came from North Ireland, but they were descended from Scotch and North British stock that had been transplanted to Ireland to take the place of an Irish population that had been driven out. They were a vigorous population, thrifty, well educated, religious, believing in schools and churches, intense Protestants, devoted to the strongest and most radical forms of the Protestant faith. In a word, they were Presbyterians. They began coming to America in large number early in the eighteenth century, mainly to escape religious persecution at home. They landed at different ports on the coast, but mainly south of Hudson River. Finding the shore belt already occupied by an earlier population, they passed through the shore settlements and made their homes on the frontiers. In Pennsylvania, they took position in the rear of the German settlements, and so faced the savage wilderness and its savage inhabitants. They were a fearless race and enter-

[1] Gustav Körner, *Das Deutsche Element in dem Vereinigten Staaten von Nordamerika*, 1818-1845.

tained ideas of the Indians the exact opposite of those held by the Quakers. Occupying the geographical position that they did, with such a character as theirs, they were quick to pass the Allegheny Mountains when the time came, and they paid with their blood for the conquest of the Western wilderness.

57. Other Nationalities.—There were still other nationalities or races that can be only mentioned. The Welsh emigrants were commonly Quakers, and readily affiliated with their English brethren of the same faith. The colony received a limited French emigration, all or nearly all Huguenots driven from their homes in France by religious persecution, and readily absorbed into the main body of the population. Finally, mention may be made of the New Englanders, whose descendants are to-day numerous in one or two tiers of northern counties stretching from the Delaware to Lake Erie. The story of this emigration will be told in another place.

58. Geographical Distribution of Population.—The principal groups of population found in Colonial Pennsylvania were not indiscriminately scattered, but were found within pretty definite geographical limits. The Quakers occupied the southeastern part of the State, as Chester and Philadelphia counties. Behind them were grouped the Germans, occupying Lancaster, Bucks, York, and other counties that at no point touched the Delaware River. Back of the Germans again were the Scotch-Irish, who took possession of the valleys leading up to the mountains, and thus prepared themselves for crossing to the Western waters when the day should come. Time has broken up and

scattered these several groups to a considerable extent; but to-day there are many evidences showing the presence of the descendants of the pioneers in the very localities where the pioneers made their homes.

59. Blending of Races.—Considering the number and vigor of the races that found homes in Pennsylvania, it would not have been strange if they had remained divided and separate, thus producing confusion and weakness. Nothing of the kind happened. On the contrary, history shows a steady, if slow, tendency towards amalgamation into one homogeneous people. Some races have been more completely absorbed than others, but all have been more or less assimilated with the common type. This happy result has been largely due to the policy that the State has pursued. If the government had been conducted in the exclusive interest of one race or of one religion, no one can tell what the result would have been; possibly a war of races and the division of the State. But the broad ideas and generous spirit that Penn and his compeers gave to the government has, upon the whole, continued to prevail and has made of many peoples one people. Every race that in early times found a home on the soil of the State contributed valuable elements to its history and civilization, but it would be foreign to our purpose to describe or estimate them.

60. Daniel Francis Pastorius.—One of the most remarkable of the German emigrants was Daniel Francis Pastorius, the founder of Germantown, who was born in 1651 and came to Pennsylvania in 1683. He was a man of great learning, and in his own

country was a lawyer by profession; he was a Pietist in Germany, but a Quaker in Pennsylvania; he taught school in both Germantown and Philadelphia, was active in affairs, and wrote many books. He was one of the signers of the celebrated protest against slavery that will be mentioned on a future page. Pastorius wrote "A Geographical Description of Pennsylvania," published in 1700, which contains much curious information. For example he describes an Indian dinner: "I once saw four of them dining together in great enjoyment of their feast. It consisted in nothing more than a pumpkin, simply boiled in water, without salt, butter, or spice of any kind. Their seat and table was the bare ground, their spoons were sea-shells, wherewith they sucked the warm water, and their plates were the leaves of the nearest tree, which, after they had done their meal, they had no occasion of washing or the need of careful preserving for future use." Pastorius is the hero of Whittier's poem entitled "The Pennsylvania Pilgrim."

61. Magister Johann Kelpius. — Mention may be made of another German colonist who is prominent in the early annals of Pennsylvania, Magister Johann Kelpius, a great scholar, a religious mystic, and a man of strange ways and fancies. He was prominent in a company of hermits, men like-minded with himself, who were popularly called "The Society of the Woman in the Wilderness." This society, composed of forty members, mainly young men educated at the German universities, established itself on the Wissahickon within the present limits of Fairmount Park, Philadelphia, a region that was then a dense wilder-

ness. They devoted themselves to teaching the poor, to astrology, and to fortune-telling. Kelpius, it is said, lived in a cave in the side of one of the ravines leading down to the river. Whittier has also sketched this mystic in "The Pennsylvania Pilgrim."

62. Christopher Dock. — Christopher Dock, a Mennonite, came to Pennsylvania in 1714. He soon engaged in teaching and is known as the Schoolmaster of the Skippack. He was very successful as a teacher and devoted most of his life to the work. Yielding to the importunities of Christopher Sower, a publisher at Germantown, he wrote out his method of conducting a school, which was published in 1770. It was a pamphlet of fifty-four large octavo pages, bearing for short the title, "School Ordering" or "School Management." It was the first book on teaching, so far as known, published in the United States and contains no small amount of wise instruction.

63. Conrad Beissel.—Conrad Beissel, a Tunker, about 1732, founded a monastery called Ephrata on Cocalico Creek, in Lancaster County, where books of superior workmanship were printed and a school maintained that attracted pupils from Philadelphia and Baltimore. A Sunday school is said to have existed at Ephrata in 1740, forty-two years before Robert Raikes established his first Sunday school in England.

CHAPTER VII

WAR ON THE WESTERN FRONTIER

64. Indian Affairs.—Penn's controlling ideas in relation to the Indians have been stated in a previous chapter. He looked upon them as being not only the occupants of the soil of Pennsylvania but also its real owners. His claim of £16,000 that he surrendered to the King he regarded as the price that he paid for his political powers, or the right to govern Pennsylvania, and so considered himself bound to satisfy the Indians who were in actual possession. He therefore established at first the policy of buying such of their lands as he wanted for his purpose. In general, Penn's sons followed the same course, but they were less scrupulous than their father had been.

For example, there was the celebrated Walking Purchase, of which a brief account may be given. The Indians, so the story runs, had agreed to sell a tract of land bounded on the east by the Delaware, and on the west by a line parallel with the river drawn from Wrightstown in Bucks County northeast as far as a man could walk in a day and a half. Two athletic young men were first trained for the walk; the route was surveyed and cleared of underbrush, horses were provided to carry the walkers over the rivers, and conveyances were furnished for their baggage and provisions. At the first the Indians attempted to keep them company, but, unable to do so, they vainly called

to the walkers to walk and not run, and then gave up the competition. Naturally enough, when the walk was over the Indians thought they had been cheated and were very angry. This was in 1737. Penn sought to protect the Indians against dishonest traders, and in this, too, he was followed, though with less zeal, by his successors; but the regulation of the Indian trade proved to be very difficult and the efforts made often fell very far short of success.

65. Difficulties of the Indian Situation.—The situation involved serious difficulties. First, there were two sets of native land-owners. The Indians on the ground, the Delawares, Shawanees, and other tribes, claimed the soil as their own, with much overlapping of claims. Then there were the Iroquois tribes at the north in Central and Western New York, who said the Indians in immediate possession were their vassals, and who accordingly asserted a dominion over a large part of Pennsylvania. Then the Indians sometimes had bad memories or else they repented them of the sales that they had made. The consequence was that the Penns were often obliged to buy the same lands several times over. As a rule, both Proprietors and governors sought to prevent the occupation of the wild lands before they had been regularly purchased of the Indians, but this proved to be an increasingly difficult task. The Penns strove also to prevent other persons making land purchases of the Indians, but this was also difficult.

Not many of the German emigrants, and none of the Scotch-Irish, shared the gentle views and feelings of the Quakers toward the Indians; many of them had

no repugnance to killing such as got in their way, while they themselves were constantly getting in the way of the Indians, crowding in upon their lands and driving dishonest bargains. The land question and the trade question became harder and harder to manage as population increased and the settled area of the province expanded. Notwithstanding all these facts, the early history of Pennsylvania was free from those murderous Indian wars that form such repulsive chapters in the early history of most of the other colonies. But the time came all too soon when this could no longer be said.

66. The Geographic Factor.—There can be little doubt that the exemption from Indian wars which Pennsylvania enjoyed for a half century at least was partly due to her favorable geographical situation. If the province had been as near to Canada as Massachusetts or New York was, it is reasonably certain that the Quakers would have been early involved in Indian hostilities as well as the Puritans of New England and the Dutch of New York. The meaning of this is that the French would have contrived in some way to array the Indians more or less against them. This will become plain when we consider the facts set forth in the following paragraph.

67. The French Appear in Western Pennsylvania.—The English Government had long claimed the regions of the Great Lakes and the Ohio Valley as its own possession. The French Government had made a similar claim. But neither power attempted to enter into possession, and so there was no quarrel on this account, although plenty of quarrels between

the two powers for other reasons. But by the middle of the eighteenth century the English colonies on the Atlantic Plain had made their way well up to the Allegheny Mountains and were ready to pass them. At the same time the French had established themselves on Lake Ontario and Niagara River, and on the Mississippi, and were ready to connect these distant posts by a line of settlements and fortifications running through the Ohio Valley. Decision was necessary on both sides, because if either power hesitated the other would be sure to seize the country.

The French were the prompter of the two. "They perceived," says Mr. Parkman, "that the Fork of the Ohio, together with the Niagara, was the key of the Great West. Could France hold firmly those two controlling passes she might almost boast herself mistress of the continent." So, in the spring of 1753, the French took possession of the present site of the City of Erie, which they named Presquisle, and then made their way through the forest to French Creek and the Allegheny River, where they established Fort Le Bœuf and Fort Venango. It will be remembered that at this time Virginia claimed all Western Pennsylvania for her own. Governor Dinwiddie, of that colony, therefore regarded the action of the French as the invasion of Virginia as well as his King's American dominions. So, late in the year, he sent George Washington to the French officer at Venango and Le Bœuf summoning the French to retire whence they came. Washington was then a young man twenty-one years of age, and this was the real beginning of his great career. Nothing came of his embassy; the

French had come determined to stay in the country.

68. The French and Indian War.—Hurried events now led to a trial of strength between England and France for the possession of the Western country. Early in 1754 a small party of Virginians passed the mountains and began to fortify the Fork of the Ohio, where Pittsburg now stands; but in April the French descended the Allegheny, captured, and then sent home the Virginians, destroyed the fort that they had begun, and then proceeded to build a much more extensive one, which they named after Governor Duquesne of Canada. These transactions were the beginning of the French and Indian War, which finally extended to Europe. The English Government sent an army to America to maintain its claim to the West. The story of Gen. Braddock's expedition to the Ohio, in 1755, involving his defeat and death, is too well known to require recital in this place.

The French were now left in undisputed possession of the Western country. The old Indian friends of Pennsylvania had gradually become alienated in their feelings; and when the French planted themselves on the sources of the Ohio, and especially overwhelmed Braddock and his army, they arrayed themselves almost to a man on the French side. For the next few years Pennsylvania experienced all the horrors of Indian warfare. As Mr. Parkman says, "The West rose like a nest of hornets and swarmed in fury against the English frontier. Soon the French commander could boast that he had succeeded in ruining the three adjacent provinces, Pennsylvania, Maryland, and Vir-

ginia, driving off their inhabitants and totally destroying the settlements over a tract of country thirty leagues wide, measuring from the line of Fort Cumberland."

69. The Fall of Fort Duquesne. — In 1758 an English and provincial army, led by Gen. Forbes, marched by Carlisle, Fort Bedford, and Fort Ligonier over the mountains, cutting its own road as it went toward Fort Duquesne. On its near approach the French garrison destroyed their works and abandoned the place forever, some of them going down the Ohio and some ascending the Allegheny. Soon after Fort Pitt was built at the junction of the two rivers. Forbes' success gave the English colonists ready access to the Western waters, and for the time put an end to the scourge of Indian warfare.

70. Later Indian Warfare.—Peace on the frontier was not of long duration. The Indians of the West were determined to keep the English colonies east of the mountains, or at least east of the Ohio River. At the close of the French and Indian war, Pontiac, a celebrated Ottawa chief, organized one of the most formidable combination of Indians ever made, having this end in view. The storm of war burst suddenly, and in its first fury several of the posts in Western Pennsylvania fell into the hands of the savages. Fort Pitt and one or two others resisted all attacks. Again the frontier blazed with fire and ran with blood. In the summer of 1763 Col. Bouquet, with a small army, moved westward along Forbes' Road towards Fort Pitt. He defeated the Indians in the severe action of Bushy Run. Beyond this point the Indians fled as he advanced, and he marched on into the Ohio wilder-

ness, where he compelled the tribes to make peace and deliver up the prisoners that they had carried off from the borders. There was now a cessation of hostilities, but on the eve of the Revolution war broke out again and the old scenes of devastation and bloodshed were repeated. Such was the state of things all through the Revolution. In fact Pennsylvania did not enjoy complete immunity until Gen. Wayne inflicted upon the Western tribes their terrible defeat at Fallen Timbers in 1794. In one of the lulls of savage war, in 1768, the Penns paid the Iroquois $10,000 to release their final claims on the soil of Pennsylvania.

71. End of Quaker Ascendency.—At first the Quakers controlled the government of Pennsylvania, or at least the Assembly, because they were a majority of the people of the colony. Moreover, when they ceased to be such they could still control the Assembly, because the Germans, remembering their early indebtedness to the Quakers, voted with them. The real end of their ascendency came in 1756. They were then thrown out of power by their peace principles—what would now be called their "Quaker" policy. From time to time the English Government, through their governors, called on them to vote men and money for war purposes, but the Assembly would either refuse the call or simply vote money "for the King's use," leaving the authorities to expend it as they pleased. There was no little friction in consequence at times, but it was always allayed in some way and things went on as before, until the havoc and blood that marked the French and Indian War subjected the Assembly to a new strain. The demands

of the Home Government, the Proprietors, and the Governor for men and money to defend the province now became stronger than ever, while a majority of the people insisted that the Assembly should give up its Quaker policy and protect the frontiers. Unable to withstand the pressure, some members of the Assembly resigned their seats, others refused to stand for election, and so control passed from the hands of the Quakers to the hands of those who believed in defending the province against the enemy. It must be said, however, that some of the Quakers made common cause with the fighting people in making this demand.

We have now traced out the planting of the Commonwealth and its development to the close of the Colonial period. The antagonisms and strifes, Penn's misfortunes and disappointments, the growing alienation of the Proprietors and the people, are not pleasant subjects to contemplate. At the same time, they were naturally incident to that growth of the province in numbers and wealth, and that development and discipline of the democratic spirit which gradually prepared Pennsylvania to take her place in the circle of the American Union.

CHAPTER VIII

THE COLONY BECOMES A STATE

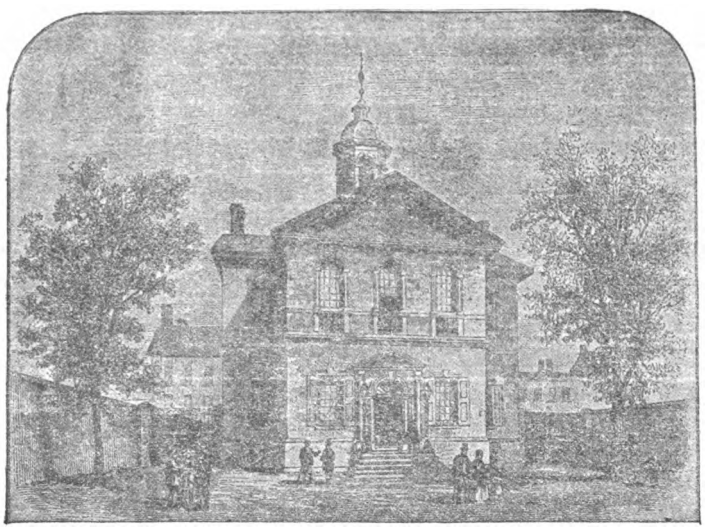
72. Growth of the Colony.—As compared with all the old colonies, Pennsylvania made a rapid growth. This is due to several causes, as her natural advantages, the strength of the colony at the beginning, and the liberal character of the government. Except Georgia, she was the last of the thirteen colonies to be planted, and she profited more or less from their experience. The population in 1775 is unknown, as there were no censuses in those days. But it has been estimated at 341,000, exclusive of negro slaves. She surpassed all the colonies but Virginia and Massachusetts in number of inhabitants, while her white inhabitants outnumbered those of Virginia. The older parts of the State were well settled, well cultivated, and rich. Settlers in considerable numbers were already found west of the mountains. Philadelphia was one of the two largest cities, while Lancaster, with 1,000 houses and 6,000 people, was the largest inland town, in the country. Save on the frontier, comfort prevailed, and in the richest parts luxury, among the people. Agriculture was the leading industry, but commerce and trade also abounded. At the opening of the Revolution, Pennsylvania was a progressive and prosperous commonwealth.

73. The City of Philadelphia.—Perhaps none of Penn's ideas were more fully justified by time than his

ideas regarding the city that he founded and named. This was due to her favorable position, the good government of the colony, and the character of the inhabitants. Situated on the Delaware, at no great distance from the sea, her seat was midway between the Northern and Southern colonies. In 1775 she had a population of from 20,000 to 22,000. The public buildings were the finest to be found anywhere in the colonies, and her commerce surpassed that of any other American city. The people were intelligent, comfortable, prosperous, and generally contented. The merchants, as a class, were rich and enterprising. The better homes, established in fine houses, showed cultivation, wealth, refinement, and even luxury. Many of the public men who came to the city from a distance, notably those from New England, admitted to these homes, were surprised to see the spectacle that they presented. In the neighborhood of the city were splendid country seats owned and occupied by some of the more prominent families. The city was a center of education, intellectual activity, and scientific interest.

John Adams, in 1774, wrote to his wife after visiting one of these homes: "We saw his library, which is clever. But this plain Friend, and his plain though pretty wife, with her thees and thous, had provided us the most costly entertainment; ducks, hams, chickens, beef, pig, tarts, creams, custards, jelleys, fools, trifles, floating islands, beer, porter, punch, wine, etc." Writing to his wife again in 1777 Adams gives a delightful account of a ride that he took north from Philadelphia along the bank of the Delaware. "I am

ashamed of our farmers," he wrote. "They are a lazy, ignorant set; in husbandry, I mean; for they know infinitely more of everything else than these." Plainly, the Philadelphia Quakers did not stint themselves in eating and drinking. The visitor might have been pardoned who thought that these descendants of the early Quakers had forgotten their lessons of sobriety, plainness, and self-denial. When John Dick-



CARPENTERS' HALL.

inson called on John Adams, on the latter's arrival in the city, he came with a coach drawn by four splendid horses.

74. The Continental City.—Philadelphia was the Continental city of the Revolutionary period. Her internal advantages as well as her geographical position made her the natural common meeting-ground of

the American States in the early history of the Republic. The great political acts upon which our National history turns are forever associated with the city. The names of Carpenters' Hall and Independence Hall are familiar to every schoolboy in the land.

75. Movement Towards Independence.—Pennsylvania took an active part in the early movements taken by the Colonies to check the aggressions of the British Government and to maintain American liberties. John Dickinson, one of her citizens, wrote the "Farmer's Letters," which did more than any other publication to create American feeling in its time. Pennsylvania delegates sat in the Stamp Act Congress, held at New York in 1765, and Dickinson wrote the Declaration of Rights that it adopted. The State was also represented in the Continental Congresses of 1774-75, when Dickinson's pen was again employed in the preparation of some of the great state papers that those bodies put forth. He was the author also of the Articles of Confederation as first reported to Congress. When it was first proposed that the Colonies should declare themselves independent, a majority of the people did not favor the proposition. Some were opposed to such action at that time as premature, and some were opposed to it at any time. In fact, Pennsylvania held the scale at first between the States that were eager and the States that were slow in the revolutionary movement. Still Dr. Franklin was one of the committee of five appointed to prepare the Declaration of Independence, and the names of nine Pennsylvania delegates are signed to that document.

76. The State Constitution.—The fact is that Pennsylvania was the second State to put a constitution into operation. The old Assembly, which went back to William Penn, fell to pieces in the summer of 1776, and a State convention for the time took its place. This convention, with Franklin as president, adopted the new constitution, September 28, 1776. The State government was now organized under this constitution, and the government that the English Crown and William Penn had established came to an end.

The Constitution of 1776 contained some novel features. The first section declared that the State should be governed by an assembly of the representatives of the freemen and a president and council. In this assembly, called the House of Representatives, the supreme legislative power was vested; there was no Senate and no veto. Members of the assembly were elected by the qualified voters for a term of one year. The supreme executive council, consisting of one member for every county and one for Philadelphia, were elected for three years. The Assembly and the Council annually, on joint ballot, elected the President and Vice-president. There was no governor as we understand the title. The President, and in his absence the Vice-president, with the Council, constituted the executive branch of the government. A still more novel feature of the plan was a council of censors chosen once in seven years, to inquire into the workings of the government.

For some reason Pennsylvania has been fond of constitutional changes. The State has had four inde-

pendent constitutions, not to speak of amendments. The first one has already been sketched. The second one, 1790, gave the State a legislature consisting of a senate and house of representatives and a governor elected by the people. Moreover, it swept away the executive council and the curious council of censors. The two other constitutions bear the dates 1834 and 1873.

77. Confiscation of the Common Lands.—We have seen that the Revolution upset the ancient Colonial government of Pennsylvania. The political powers and rights of the Penns were wholly swept away. It would have been strange indeed if a great democratic wave, like the Revolution, had passed over the country and left a feudal overlordship standing in its wake. It was impossible. The democratic principle in the charter of 1681 triumphed completely over the monarchial principle. It was equally certain that the same movement would sooner or later interfere with the property rights of the Proprietors. There still remained unsold 21,600,000 acres of common lands, and to leave these lands in the possession of a single family, and this practically an alien family, would never be tolerated. In November, 1779, the Assembly passed an act, called the Divestment Act, that, with certain reservations, confiscated the common lands and vested them in the State.

This act, however, confirmed to the Proprietors their private estates and proprietary tenths or manors the surveys of which had been returned to the land office before July 4, 1776, together with the rents and arrears of rents due on account of such manors. Other

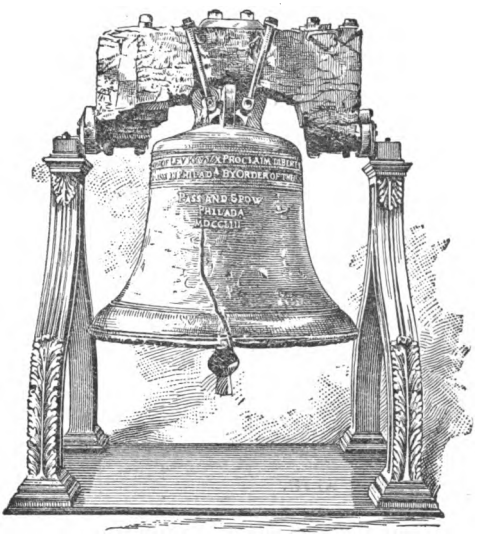
rents and arrears, including all arrears on purchase money due on account of land sold, were made payable to the State. The law provided that the sum of £130,000 should be paid to the claimants and legatees of Thomas and Richard Penn "in remembrance of the enterprising spirit of the founder [William Penn], and of the expectations and dependence of his descendants." From this time on the land office was a part of the State government.

78. Independence Hall.—The first public official building in Pennsylvania was Letitia House, built by William Penn, and by him placed at the service of the province. Next came the Town House, built in 1709. The State House of Revolutionary fame was first occupied by the Assembly in 1735, but Independence Hall was not completed until 1742. With this Hall more important historic events are associated than with any other building in the country. Here sat the Stamp Act Congress of 1765, and the Continental Congresses of 1774, 1775; here Washington was appointed Commander-in-Chief of the American army; here independence was declared in 1776, and here the Constitution was framed in 1787. The first public reading of the Declaration of Independence was had in the Court Yard, such of the people of Philadelphia as wished to do so listening to the reading.

Independence Hall has recently been restored and rededicated; the offices that had from time to time been added to the original structure have been removed, and the historic Hall now stands out again in its original form and proportions. The rededication occurred October 28, 1898, in connection with the

Peace Jubilee, the Governor of the Commonwealth presiding.

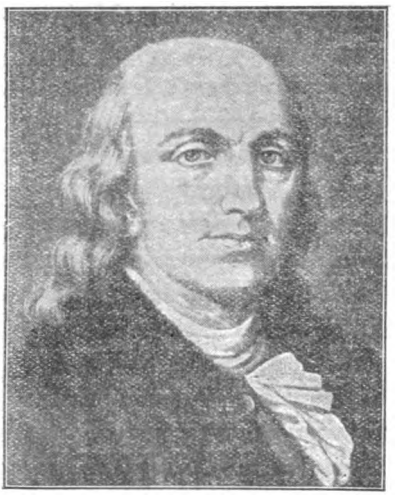
79. Liberty Bell.—This famous old bell was cast in Philadelphia in 1753 and was at once hung in the belfry of the State House. Around the bell, cast in metal near the top, we read the words: "Proclaim



LIBERTY BELL.

liberty throughout all the land unto all the inhabitants thereof." This legend was prophetic of July, 1776, when the bell rang out the tidings of Independence. It was long rung on every successive Fourth of July as a part of the local celebration, until it was cracked in the very act. The old bell was one of the most interesting historical memorials exhibited at the Exposition in Chicago in 1893.

80. Dr. Franklin.—The greatest citizen that Pennsylvania has given to the country was Dr. Benjamin Franklin. He was born in Boston, but came at the age of seventeen to Philadelphia. He had learned the printer's art, and in time established himself in the printing and publishing business in the city of his adoption.



BENJAMIN FRANKLIN.

Dr. Franklin distinguished himself in many fields of activity, as practical affairs, politics, science and literature, and the civic life of the city. He served in the Assembly and sat in several of the general Congresses, including that of 1776. Congress sent him to France as a representative of American interests, and he was the principal negotiator of the treaties with that country in 1778 as well as the treaty of peace with Great Britain in 1782. He was also President of Pennsylvania and a member of the Federal Convention of 1787. His name is signed to both the Declaration of Independence and the National Constitution. He may be called the founder of the Philadelphia Library, 1731, the Philosophical Society, 1744, and of the University of Pennsylvania, 1749.

CHAPTER IX

PENNSYLVANIA IN THE REVOLUTIONARY WAR

The part taken by Pennsylvania in resisting the aggression of the British Government and in bringing about the Declaration of Independence, has been briefly described in the last chapter. We shall now look at the part that the State played in the war itself.

81. Geographical Position.—The United States of 1776 was practically confined to the Atlantic coast, extending from Maine, then a part of Massachusetts, to Georgia; a strip of territory 1,200 or 1,300 miles long by 200 or 250 miles wide. Pennsylvania was situated midway between the two extremes. There was no going by land from north to south without crossing her borders, while her relation to the water transportation of the country was also important. These facts, together with the population and wealth of the State and her position in the Union, naturally brought the invaders of the country to her soil.

82. Philadelphia an Objective Point in the War.—Since Philadelphia was the seat of Congress and so the National Capital as well as the metropolis of an important State, it was sure to become an object of desire if not of necessity to the British general. After the fall of New York into his hands and Washington's retreat across the Hudson, he pushed rapidly into New Jersey, expecting soon to capture or disperse

the remnant of the American army, seize the city, and end the war. The British forces reached the east bank of the Delaware, but they got no farther. Washington's generalship in preventing an immediate crossing of the river, and especially his victories at Trenton and Princeton, turned them back to New York and for the time saved the city. But the danger had been so great that Congress on December 30, 1776, adjourned for safety to Baltimore.

83. Fall of the City.—Until the summer of 1777 not a British soldier had set foot on Pennsylvania soil. But General Howe now prepared to strike a decisive blow at Philadelphia. Thinking the march across New Jersey, with Washington ready to fall on his flank and rear, too dangerous, the British commander put his army on board the fleet in New York harbor and sailed to the head of Chesapeake Bay. He landed at Elkton and began his march toward his destination. At the Brandywine he met Washington, who had hurried southward to oppose his progress. The British army was 18,000, the American army 11,000. Howe was victorious and continued to advance, Washington retreating before him. There was now greater consternation in the city than there had been the year before; many of the Whigs fled, while the Tories remained to welcome their friends and defenders. Congress adjourned first to Lancaster and then to York. After some further fighting the British army entered the city on the 26th of September. General Lafayette was wounded at the Battle of the Brandywine and taken to Bethlehem, where he was cared for by the Moravians.

84. Further Military Operations.—On October 4th Washington attacked a strong detachment of Howe's army that was posted at Germantown; at first he gained some advantage, but in the end was compelled to retreat, although later this British force was withdrawn into the city. General Howe had approached Philadelphia by the Chesapeake rather than by the Delaware because below the city the Delaware was strongly fortified. These fortifications kept the British army and fleet divided; the ships could not come up to the city with the much needed supplies. The British general now turned his attention to opening the river, which he finally accomplished, but not until there had been much hard fighting, particularly at Fort Mifflin and Red Bank, in which his forces suffered severely.

85. The British in Possession.—Howe and his army passed a pleasant winter in Philadelphia. The Tory inhabitants had remained in the city; they were numerous and wealthy, and they now did what they could to contribute to the comfort and entertainment of their friends. There was a constant round of festivities—parties, balls, and amateur theatricals. The scene seems to us the more gay because Washington and his army passed the same winter in destitution and suffering but a short distance away at Valley Forge.

86. The Evacuation of the City.—Possession of Philadelphia brought the British general no substantial advantage. The city was not Pennsylvania and much less the country, and the war was still as far from ending as ever. In fact, through the winter the city was

in a condition much like a state of siege. In the spring it was determined that it must be abandoned and the British forces be concentrated at New York. This was not an easy thing to do, for a French fleet was expected to appear on the coast that would make the sea route dangerous, while if a march across New Jersey were attempted Washington would improve any opportunity that was offered to strike his enemy in flank or rear. Finally it was determined that the march was the less hazardous of the two. Sir Henry Clinton, who had succeeded General Howe in command, crossed the Delaware on June 18th and began his march to New York. The story of Monmouth shows how hazardous the movement was and how disastrous it might have been. Soon the fleet fell down the river, carrying 3,000 Tories to New York. There was no more fighting on the Delaware during the war.

One painful incident of the British occupation of Philadelphia was the wanton destruction of many beautiful old country seats in the suburbs. This is Mr. Fisher's description of what took place: "From the line of their redoubts at Poplar street northward to the outskirts of Germantown were many pretty country seats — the summer homes of Whig and Tory — containing in days of peace the most typical and pleasant life of the times. A few of them escaped, and are still standing; but twenty-seven of them which we might now enjoy for their simple and perfect architecture were ruthlessly burned to ashes. At one hour on a certain day late in the autumn people on the roofs and steeples of the city could see seventeen of these old homes blazing up at once."

87. Later History.—After the evacuation of Philadelphia by the British, the American forces again took possession. Congress returned also and the city continued to be the seat of government until an unfortunate occurrence in 1783 drove Congress to Princeton. While the State was not again the theater of war she did not on that account lose interest in the struggle. As we have seen, the people were divided in sentiment at the beginning of the conflict; there were plenty of Tories in the State; but these internal divisions and strifes did not keep Pennsylvania from paying her full share of the price of independence, both of blood and of treasure. In fact, she came much nearer meeting the requisitions that Congress made upon her than most of the States. The Scotch-Irish, a large element in the population, were on the patriot side almost to a man. They had some old scores to pay off on account of North Ireland and Scotland.

88. General Anthony Wayne.—The most distinguished soldier that Pennsylvania gave to the Revolutionary Army was General Anthony Wayne, who was born in Chester County in 1745. He was a farmer and surveyor, served in the legislature in 1774-75, and entered the army as a colonel in 1776. He served in Canada in the force sent to subdue that country and was wounded; he was at Brandywine, at Germantown, and at Monmouth. He captured Stony Point on the Hudson, one of the most brilliant actions of the war, and was wounded again. Later, he served in Virginia, and still later in Georgia. After the war he was again in the legislature, and was also a member of the State convention that ratified the National Constitu-

tion. In 1792 he was made general-in-chief of the army, and was sent to the West to conduct the war against the Indians. At the Fallen Timbers, on the Maumee River, a little distance above the present city of Toledo, he inflicted upon the tribes an overwhelming defeat that gave peace to the frontier. His almost reckless bravery won for him the name, "Mad Anthony Wayne." General Wayne died in Erie in 1796, and his remains lie buried in Radnor Churchyard, in his native county, where in 1809 the Society of the Cincinnati erected a monument to his memory.

89. Movement Towards Union.—The State participated in all the steps looking directly to union among the Colonies or States. Her delegates sat in the Albany Congress in 1754, and Franklin wrote the celebrated Plan of Union that this body adopted. Long before this time, in 1697, Penn had drawn up a plan for uniting for certain purposes all the English colonies. Pennsylvania delegates were present at the Conference held at Annapolis in 1786, which led to holding the Federal Convention in Philadelphia the next year. The Pennsylvania delegation in this convention was the most numerous one of all and one of the ablest as well. It included Franklin, Robert Morris, James Wilson, and Gouverneur Morris, and four others not so well known to history. The Constitution, when it was given to the country, bore the names of all these men. Pennsylvania was the second State to ratify the Constitution, Delaware being the first one. Her ratification was given December 12, 1787, and was by the vote of 43 yeas to 23 nays.

90. Robert Morris.—Pennsylvania furnished one

of the most useful men to the American cause in the person of Robert Morris. He was born in England, but came to Philadelphia, at the age of thirteen, in 1747. He became a merchant, and at the breaking out of the war was a member of the largest commercial house in the city. He took the American side and rendered the cause many distinguished services. He sat in the Continental Congress of 1776 and in the Federal Convention of 1787. His is one of the few names that are signed both to the Declaration of Independence and the Constitution of the United States. But his most valuable service was in connection with the financial affairs of the government. In 1780 he, with others, established in Philadelphia the Bank of North America, which freely loaned its money to Congress, thus enabling it to keep the army in the field. It was owing to his exertions that Washington's army was supplied for the campaign against Lord Cornwallis. He was superintendent of finances from 1781 to 1784. He was also one of the two first senators that the State sent to the National Senate in 1789. Morris was one of two men who in 1784 sent to Canton, China, the first American ship seen in that port. In his old age he lost his fortune in land speculations, and even spent some time in a debtors' prison.

91. James Wilson. — This distinguished statesman of Revolutionary times was born and educated in Scotland. Coming to America when a young man, he taught for a time in the schools of Philadelphia, studied law, and became active in public affairs. He sat in the provisional convention of Pennsylvania, in

the Continental Congress, and in the Federal Convention of 1787. He was one of the most prominent of the framers of the National Constitution. He was also a member of the State convention that ratified the Constitution. Washington appointed him one of the first judges of the Supreme Court of the United States, and he was also the first professor of law in the country, lecturing on that subject in the University of Pennsylvania.

92. John Dickinson.—One of the most prominent of the Revolutionary fathers was John Dickinson, who was born in Maryland, and was at different times a citizen both of Pennsylvania and Delaware. He studied law in London and practiced it in Philadelphia. He was a Quaker and a man of liberal estate. His services in the Continental Congress have been already mentioned. He served also as a soldier in the Revolutionary War, sat in the State assemblies of both Pennsylvania and Delaware, and was president of both those States. He also was an active member of the Federal Convention, but as a delegate from Delaware rather than from Pennsylvania. He founded and endowed Dickinson College, at Carlisle.

CHAPTER X

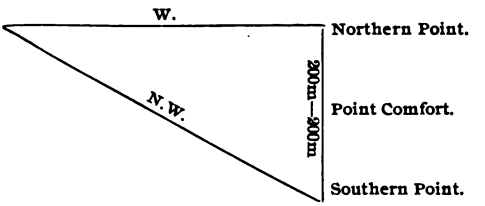
TERRITORIAL HISTORY

Before going farther with our story we will take account of the territory of Pennsylvania—the physical basis of the commonwealth. This will make it necessary to go back to the beginning of the English Colonies.

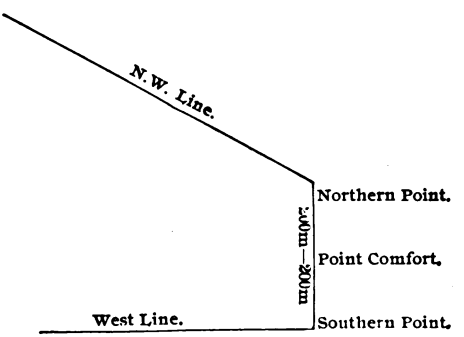
93. London and Plymouth Companies. — In the year 1606 King James I., of England, by one charter created these companies and defined their rights and powers. To the London Company he gave the zone between 34° and 41°, and to the Plymouth Company the zone between 38° and 45°, north latitude. These grants extended inland only fifty miles, but they embraced all islands within one hundred miles of the shore. The companies were authorized to plant colonies of the King's subjects within their respective limits. As will be seen the grants overlapped three degrees; but disputes were guarded against by the provision that neither company should make a settlement within one hundred miles of one previously made by the other. Apparently the plan was to make the strip 38°–41° a neutral zone. Under the charter of 1606, the London Company founded Jamestown, Virginia, in 1607, but the attempts of the Plymouth Company to plant colonies at the North resulted in failure.

94. New Charters, 1609 and 1620.—In the first of these years the King gave the London Com-

pany a new charter, which assigned to its colony boundaries very different from those established three years before. From Point Comfort, Virginia should extend two hundred miles north and two hundred miles south, along the coast; and "up into the land throughout from sea to sea, west and northwest,"— that is, from the Atlantic to the Pacific Ocean. The last part of the description is by no means clear. Was the northern line to run west and the southern line northwest "throughout"; or *vice versa?* If the construction represented in the following diagram be taken, the colony would be a triangle of very moderate size.



But if the following be the true construction, the colony would be a vast trapezoid, six degrees of latitude in width on the Atlantic Ocean, and from twenty to thirty degrees on the Pacific.



Naturally enough, Virginia, when the time came, adopted the second view, and thus prepared the way for events of great importance, some of them affecting Pennsylvania.

A second charter, which bears the date 1620, gave the name of New England to the territory of the Plymouth Company, and bounded it on the south by the fortieth parallel, also "throughout all the main lands from sea to sea." This charter also led to important events in which Pennsylvania was deeply interested.

95. The Maryland Grant, 1632. — The grant that Charles I. made to Lord Baltimore in 1632, called Maryland, cut deeply into the earlier grant that his father had conveyed to the London Company. Virginia naturally resisted this invasion of her territory, but in the end was compelled to recognize, in great part, what the King had done. Still it was only after many and hot disputes that the two colonies compromised their difficulties, fixing their common boundaries practically as they exist to-day. The northern limit of the grant to Baltimore was also the scene of future controversies. On that side, his boundary was carried by his charter "into that part of the Bay of Delaware which lieth under the fortieth degree of north latitude from the equinoxial, where New England is terminated." This refers to the southern boundary of the Plymouth Company as fixed in 1620.

96. The Connecticut Charter, 1662.—This charter granted and confirmed unto the Governor and Company of Connecticut all that part of the King's dominions lying south of Massachusetts and north of the sea [Long Island Sound], extending from Narra-

gansett Bay on the east to the Pacific Ocean on the west. This charter, too, was a prolific source of future contentions.

97. Grant to the Duke of York, 1664.—This grant gave the royal Duke, along with other territories, all the land extending from the Connecticut River on the east to the east side of Delaware Bay. His charter brought the Duke to the margin of Pennsylvania, but did not actually invade her limits as afterwards declared.

98. State of the Case in 1681.—When Charles II. gave William Penn his charter this was the situation: On the south, the Maryland grant covered much of the present surface of Pennsylvania, and the Virginia grant still more; on the north, fully two-thirds of the State had been set off to New England in general, and one of these thirds to Connecticut in particular.

99. The Charter Boundaries of Pennsylvania.—The charter of 1681 bounded the province conveyed to William Penn as follows:

On the north, the beginning of the three and fortieth degree of northern latitude; on the east, the Delaware River from twelve miles distance northwards of New Castle to the three and fortieth degree of northern latitude, if the river extended so far, but if not, then by the river and a meridian line drawn from its head to the said degree; on the south, a circle drawn at twelve miles' distance from New Castle northward and westward to the beginning of the fortieth degree of northern latitude, and from their point of intersection a straight line drawn westward to

the farthest limit of the province; on the west, the province should extend five degrees of longitude, to be computed from the Delaware River.

These boundaries may now seem clear and definite. The fact is, however, that every one of them, with perhaps the exception of the Delaware River, gave rise to serious controversies. These controversies were due to the indefinite and contradictory descriptions, the failure of these descriptions to correspond to the facts of nature, and their confliction with other boundary lines that had been previously drawn for other colonies. It is not proposed to follow the long and crooked track of these disputes, but only to point out what they were about and to show how they were finally settled.

100. The "Beginning of a Degree."—The expressions "the beginning of the three and fortieth degree" and "unto the beginning of the fortieth degree" of latitude are unusual and would not now be used. A degree of latitude is, properly speaking, a strip or belt of the earth's surface running east and west, parallel with the equator, a degree, that is about 69½ miles, in width. The first such belt, counting from the equator, is the first degree, the second one the second degree, and so on. But we commonly understand, perhaps, by the expression "degree of latitude," the line or parallel of latitude that marks the termination of one such belt and the beginning of the next one. The phrase "beginning of a degree" must therefore refer to a belt and not to a line. Hence the expressions "beginning of the fortieth degree" and "beginning of the three and fortieth degree" would mean the belts

bounded by the 39th and 40th parallels and the 42d and 43d parallels, respectively. Penn and his successors so understood the descriptions. This would place Pennsylvania on the map between the 39th and 42d parallels, and would make the province three degrees of latitude in breadth, north and south. A glance at the map, however, suffices to show that this is true in only a single particular. The northern limit of the State is the 42d parallel, but the southern limit falls considerably north of the 39th parallel, which almost touches the District of Columbia, while the State is less than two and a third degrees in width instead of three. We must see how this came about.[1]

101. Dispute with Lord Baltimore.—Only two points of dispute that arose between the Proprietors of Maryland and Pennsylvania need be mentioned. First, Lord Baltimore's charter placed his northeastern corner in Delaware Bay, on the 40th degree of latitude; but this degree or parallel runs far north of the head of the bay. Again, Penn's southern boundary was a circle drawn twelve miles' distance from New Castle, from the bay around to the beginning of the 40th degree, and then this degree westward to his limit; but such a circle falls between the 39th and 40th degrees or parallels, and cuts neither one of them at any point. It is very plain, therefore, that the boundaries laid down in both charters were drawn in ignorance of the real facts of geography.

[1] Sometimes it was held that the above-quoted expressions meant the 40th and 43d parallels. This view, if carried out, would have placed the southern boundary of the State north of Philadelphia, while the northern one would have been carried to the latitude of Syracuse in the State of New York.

In this long contention the Penns tried to carry their limit down to the 39th parallel, while the Baltimores strove to crowd their limit up to the 40th parallel. Neither one was successful.

102. Settlement of the Dispute.—This settlement was a compromise between the parties and was finally reached in 1760. It preserved the 12-mile circle measured from New Castle as a center, and drew a new line from the circumference of this circle westward, which lies in latitude 39° 43′ 26″ north. The joint proprietors sent over from England Jeremiah Mason and Charles Dixon, two distinguished mathematicians, who ran and marked the various lines involved, in 1763-67. The east and west line they surveyed and marked 244 miles west of the Delaware. This line took its name from the two surveyors, Mason and Dixon, and has played an important part in the history of the country. It will be seen that the settlement gave the Baltimores two-thirds and the Penns one-third of the zone of territory in dispute, thus reducing the breadth of Pennsylvania two-thirds of a degree.

103. The Dispute with Virginia.—The conflict of Penn's charter, as he understood it, with the charter of 1609, as Virginia understood it, was more serious than the conflict of Penn's charter with that of Lord Baltimore. The 39th parallel cut the northwestern line "throughout from sea to sea," which Virginia claimed for her northern limit. The grant to Lord Baltimore, as finally established, confined Virginia to the south side of the north branch of the Potomac; but beyond the source of that stream Vir-

ginia, when the time came, maintained her right northward and westward to the Pacific Ocean. She claimed not only the vast region beyond the Ohio River, but all Pennsylvania west of the mountains as well. How far the five degrees of longitude would carry the western limit of Pennsylvania, no one knew ; but the Penns stoutly claimed that it fell a considerable distance west of the mountains. The quarrel with Virginia was slower in ripening than the one with Maryland, but it affected more important interests and became still sharper than that quarrel.

104. Virginia Takes Possession. — In 1738 the Assembly of Virginia created Augusta county, bounding it on the east by the Blue Ridge and on the west by "the uttermost limits of Virginia." This description included Western Pennsylvania, and Virginia proceeded to treat the region in all respects as her own. When George Washington in 1754 led the Virginia Blues beyond the mountains to resist the aggression of the French, he went to defend the rights of the Old Dominion as well as the rights of George II. of England. Governor Dinwiddie, in 1754, issued a proclamation offering lands lying near the junction of the Allegheny and Monongahela Rivers to men who would volunteer in the Virginia forces, which called out a remonstrance from Governor Hamilton of Pennsylvania.

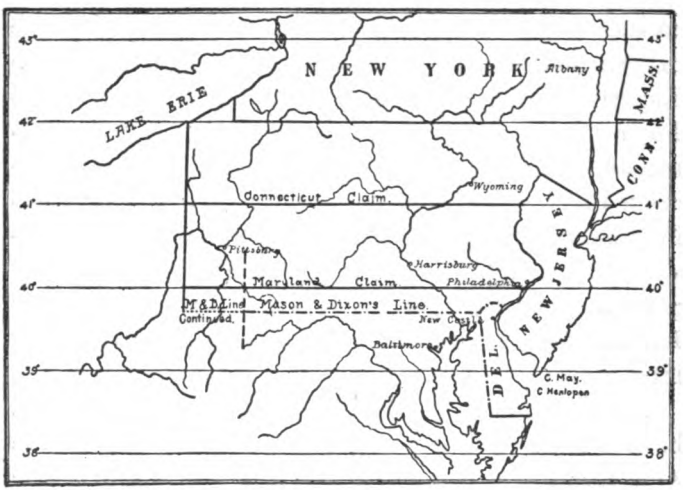
Settlers from both colonies found homes in the disputed tract. At first the French and Indian War smothered the quarrel, but it soon broke out again more fiercely than ever. The creation by the Pennsylvania Assembly of Bedford county, in 1771, and of

Westmoreland county in 1773, both of which extended beyond the Fork of the Ohio, raised at once, and very sharply, the question of local jurisdiction. Some settlers sided with one colony and some with the other; a few changed back and forth; while the turbulent and disorderly sided with neither, but sought to keep all officers of the law at a distance. Both Virginia and Pennsylvania magistrates administered, or attempted to administer, justice in the country. There were arrests and reprisals on both sides. In 1775 the Augusta county court sat twice in Pittsburg, and Pennsylvanians were arraigned before it for disregarding the authority of Virginia. Lord Dunmore, Governor of Virginia, gave Washington a patent for lands in what is now Washington county, and a Pennsylvania court afterwards upheld the validity of the patent. And so the strife went on. It was forced by Lord Dunmore, who was more than suspected of being interested in Western land speculations.

105. End of the Quarrel.—Such a bitter quarrel between two leading States threatened disaster to the American cause in the Revolution. Accordingly the members of the Continental Congress united in a recommendation to the people of Western Pennsylvania that they should cease from strife and cultivate peace. This recommendation brought the end of open hostilities. The Penns now disappeared from the scene, and the people were weary of strife. So in 1779 the two States agreed to extend Mason and Dixon's line west five degrees of longitude from the Delaware River, and to draw a new line due north from this point to the northern limit of Pennsylvania;

north and east of these lines Pennsylvania should own the territory; south and west Virginia. The southwestern corner was established by commissioners representing the two States in 1785, and the meridian line from this point to Lake Erie was run the following year.

106. The Northern Boundary.—The Pennsylvania-New York boundary never caused any real con-



MAP SHOWING PENNSYLVANIA BOUNDARY DISPUTES.

troversy. The commissioners of the two colonies, by astronomical observation, determined the intersection of the 42d parallel and the Delaware River, which is the northeastern corner of Pennsylvania, in 1774. The line westward was drawn in 1786–87. But while Pennsylvania had no quarrel with New York over her northern boundary, she had a long and bitter one with Connecticut, as we shall see in another chapter.

107. The Lake Erie Triangle.—When the western and northern boundaries of the State had been determined, and the western limit of New York agreed upon between that State and Congress, a triangular-shaped piece of territory outside of both States and either of them was found to remain. This was a part of the public domain of the United States. Pennsylvania was naturally desirous of having a frontage on Lake Erie, and so she proposed to Congress to buy this triangle. Congress acceded to the proposition, and the purchase was concluded in 1788. The amount of land contained in the triangle was called 202,187 acres, and the State paid for it three-quarters of a dollar an acre. It was this purchase that gave Pennsylvania the harbor of Erie and the site of the city of that name.

108. Physical Features of the State.—Pennsylvania falls naturally into three divisions. The southeastern section extends from the Delaware River to the Blue Mountains; near the river is a level plain which passes into an undulating tract with rounded hills. The mountain district runs northeast and southwest, and varies from 75 to 165 miles in width. Here are found the Blue Ridge and Allegheny Mountains, together with the numerous intervening ranges and intersecting valleys that, in this latitude, constitute the Appalachian System. The western tableland occupies about one-half the State, with occasional ranges of hills; it slopes towards New York, Lake Erie, and the Ohio Valley. The water basins are six in number; the Delaware and its tributaries, the Susquehanna, the Potomac, the Genesee, Lake Erie, and the Ohio. The

State lies on the Atlantic slope, in the St. Lawrence and Lake Basin, and in the Ohio Valley. Perhaps no State has a richer store of natural wealth. The first section is a rich agricultural district, with some minerals. The mountainous district abounds in minerals, especially iron and coal, and in a state of nature was clothed with forests. The third region is very productive of timber, coal, oil, and gas. Penn knew that he had received from the King a goodly province, but he had little idea of its enormous natural resources. The surface of the State is 45,215 square miles, or 28,937,000 acres.

109. The Keystone State. — Numerous reasons have been assigned for calling Pennsylvania the Keystone State. Some suppose it was owing to her geographical position among the original thirteen States, six States to the north and six to the south. The reason was probably a political one. In 1789 there were, without her, six free States and six slave States, and the notion somehow got abroad that the Union was an arch with Pennsylvania as its key. It was a common opinion that this balance of States was essential to the existence of the Union. A doggerel poem that circulated after the admission of Vermont and Kentucky closed with the words:

> "Still Pennsylvania holds the scale,
> And neither North nor South prevail."

CHAPTER XI

THE STORY OF WYOMING

The most romantic series of events in the history of Pennsylvania are those that make up the story of Wyoming. This story is a long one, and often told in prose and poetry, but only its essential parts can be related in this place.

110. The Connecticut Charter.—In 1662 King Charles II. granted to Connecticut a charter that conveyed a grant of territory as wide as the colony and extending from Narragansett Bay on the east to the Pacific Ocean on the west. The grant made to the Duke of York in 1664 included the whole region lying between the Connecticut and Delaware Rivers. Naturally, Connecticut resisted this grant and her resistance resulted in a boundary controversy between her and New York. The line between them east of the Hudson was fixed in 1683 practically where it is to-day.

111. The Pennsylvania Charter.—In 1681 King Charles gave to William Penn his charter, bounding the grant conveyed on the east by the Delaware, and on the north by parallel 42° north latitude. The southwestern point of Connecticut on the Sound is in latitude 41° north. Accordingly the grant to Penn overlapped or jumped the earlier grant to Connecticut, west of the Delaware, a full degree of latitude in width. Neither in 1664 nor in 1681 did the government of Connecticut lay claim to territory west of the

Delaware, but in 1720 Governor Saltonstall, of that colony, defining its limits, claimed that Connecticut began again beyond New York and continued westward as before the grant to Penn had heen given.

112. The Valley of the Wyoming.—About the middle of the last century there was a great quickening of interest in what was then called the Western country. Connecticut, according to the ideas of those days, was becoming thickly peopled and enterprising spirits were looking out for new settlements and new homes. Parties of explorers were sent westward, and in 1750 one of them climbed the last summits of the Blue Ridge and looked down into the valley of the Wyoming. What they saw has been thus described:

"They never forgot that scene. Nor will our race ever look upon such a scene again. The valley was about twenty-one miles long and three miles wide. The broad, rippling Susquehanna wound through it, now burying itself in groves of sycamores, and again flashing into the sunlight in wide expanses. There were woodland and meadow, level plains and lowland plains, and the remains of ancient fortifications of a vanished race. Mountain ranges bounded every side. . . . . The quail whistled in the meadows, the grouse drummed in the woods, and the wild ducks nested along the river. The deer and elk wandered at will from the plains to the mountains. The streams that poured down ravines to join the river were full of trout, and in the spring large schools of shad came up the Susquehanna. Wild grapes and plums grew in the woods, and here and there on the plains the Indians had cultivated tracts of corn. It was an ideal spot,

the natural home of the hunter and the poet, a combination of peace, duty, abundance, and wild life such as is seldom found."

113. The Susquehanna Company.—The reports that these explorers made fired the Connecticut imagination, especially when it was confirmed by the visits of later explorers. So in 1753 a large company, called the Susquehanna Company, was formed with a view of colonizing Wyoming. The colonial government did not, however, charter or otherwise recognize this company until twenty years later. In 1754 the company bought of certain chiefs of the Iroquois Indians, who claimed the region for their own, a tract of land lying between parallels 41° and 42° north, and extending from a point ten miles east of the Susquehanna one hundred and twenty miles westward. The Penns strove to purchase these lands for their province, but for some reason the Indians preferred to deal with the New Englanders.

114. The First Settlement.—In 1762 about two hundred Connecticut farmers, with their families, entered the Wyoming Valley and began a regular settlement. The Indians waited until they had made and harvested a crop, and then fell upon them suddenly, killing twenty men and scattering the whole colony among the woods and mountains. Six years elapsed before the Susquehanna Company renewed its efforts at colonization. But the Wyoming tragedy had begun.

115. The Beginning of Strife.—There were in 1762 no Pennsylvania settlements existing nearer to Wyoming than the Moravian beginnings on the Lehigh

River. Hitherto the Penns had done nothing to maintain their claim but to protest against the Connecticut invasion. They now began to bestir themselves. In 1768 they bought of the Iroquois all that part of the province which they had not previously bought, including the territory sold to the Susquehanna Company. They also made leases of lands in the Wyoming Valley, one of the conditions being that the lessees should defend their claim against Connecticut trespassers. The Penns also obtained from the Attorney-General of England a legal opinion to the effect that their charter and grant were perfectly valid. Meantime the Connecticut men were not idle. That colony obtained from four eminent English lawyers an opinion to the effect that the Connecticut title was perfectly legal and satisfactory.

116. Question of Title.—This lies in a nutshell. Which of the two grants was legal, the one made to Connecticut or the one made to Penn? Connecticut contended that the King, having in 1762 granted the disputed territory to her, could not in 1681 grant it to William Penn. But the Penns replied that the King of England, in the seventeenth century, disposed of his American dominions as he saw fit, and that there was no way of restraining him. In cases of conflicting grants, the last one stood unless the contrary was expressly ordered. Aggrieved parties could appeal to the King to secure a reversal of a grant of which they complained, but they had no other redress. In this case both the Penns and Connecticut appealed to the King, but as the Revolutionary War soon drew on nothing ever came of their action.

117. The Second Settlement.—Early in 1769 the Susquehanna Company sent Colonel Zebulon Butler, a veteran soldier of the French and Indian wars, to Wyoming with a well-equipped expedition, instructing him to hold it against the Penns. As the season advanced, additional settlers arrived and by May their number had increased to 270. The newcomers found the men to whom the Penns had made their leases already on the ground. Both parties fortified themselves. About this time the company sent its agents to Philadelphia to see if the controversy could not be peaceably composed, but the embassy ended in failure.

118. The First Pennamite War.—The first of the wars that bear this name now followed. On the one hand, the representatives of the Penns, clothed with due legal authority, strove to expel the Connecticut intruders from the country; on the other hand, there was continued resistance to this attempt and constantly increasing emigration. There were arrests, imprisonments, and releases; captures and recaptures; the attack and defense of block houses; much destruction of property and much loss of life; evictions and recoveries. In the changeful course of the war, the Connecticut settlement was repeatedly destroyed. But it would not stay destroyed. Fresh emigrants continued to pour into Wyoming. A Connecticut historian has written: "The fertility of the soil, the mildness of the climate, the beauty of the country, and the abundance of its resources far excelled expectation; and such glowing reports came back to the rocky farms of Windham County, Con-

necticut, that emigration raged for a time like an epidemic, and seemed likely to sweep away a great part of the population." In 1771 the war came to an end. Victory was with the invaders. The Penns had been beaten at every point.

119. Government Established.—All this time the government of Connecticut, as such, had taken no direct part in the controversy or recognized the new colony in any way. The colonists, therefore, unable to get on without government, organized one for themselves. But the movement had taken too strong a hold of Connecticut for the government to remain neutral. The Assembly, in 1773, resolved that it would, at that time, assist in some proper way to maintain the colonial claim to the lands within her limits and boundaries west of New York. In 1775 she organized the eastern part of the disputed zone into Westmoreland county and established a government like that in one of the home counties with representatives in the colonial Assembly.

120. Apathy of Pennsylvania.—As we have seen, the Penns had retired from the conflict in 1771 discomfited. For the next two years they did practically nothing to maintain their claims. All this time Westmoreland was growing. It may seem strange that Pennsylvania, which was a more powerful colony, should have permitted Connecticut thus to take possession of more than a third of her chartered territory. The explanation is that the controversy was not really between Pennsylvania and Connecticut, but between the Penns and Connecticut; and to such an issue the people of Pennsylvania were,

for the most part, indifferent. When the Penns had given place to the Commonwealth, matters took a different turn.

121. The Second Pennamite War.—But the Penns had not given up the contest. They now began to sell lands in Westmoreland, with the view of interesting purchasers in the quarrel. Pennsylvanians began to take a real interest in the controversy. In 1775 the government made a renewed attempt to expel the New England invaders, and this led to the second Pennamite War. However, the attacking force met with a repulse and victory rested the second time with Connecticut. The Revolutionary War had now begun, and this war, in a sense, created the State of Pennsylvania. The Penns soon retired and the State took their place. The American Congress had represented to the two States that further hostilities between them would endanger common American interests, and implored them to adjourn their quarrel until it could be legally determined. And this advice was finally followed.

122. The Massacre of Wyoming.—At the opening of the Revolutionary War the population of Westmoreland counted several thousand, and was all the time increasing in numbers and in prosperity. This population held one of the most exposed positions in the whole country. They were far separated from settlements that could give them assistance in time of trouble, while to the north, in Central New York, were the Six Nations—the Iroquois tribes, who had sided with the British and against the States in the war then in progress. The streams that headed in

their country would bear the savage warriors swiftly and easily southward. Wyoming was patriotic and regularly furnished her quotas of troops for the army. At the beginning of summer, 1778, a host of Tories and Indians led by Col. John Butler, a Tory, and Brant, a Mohawk chief, gathered on the Susquehanna above Wyoming preparing to destroy it. Among them were some Scotch and Dutch settlers who had been driven out early in the war, owing to their attachment to the British cause.

Unfortunately, most of the able-bodied men were absent in the army, when, on July 2d, the motley horde, having first destroyed Cherry Valley in New York, descended to the work of destruction. The old men and boys, with a few trained soldiers, under Col. Zebulon Butler, made such defense as they could, but they were overborne. Soon all organized resistance was at an end, while the indiscriminate destruction of property and slaughter of men, women, and children went on unchecked. The survivors fled to the mountains and forests, and such as could made their way eastward to Connecticut. A swamp in which many lost their lives is still called the Shades of Death. When nothing remained to be destroyed, the Indians and Tories marched northward, loaded with plunder, and adorned with the scalps of their victims.

123. Wyoming Rises from the Ashes. — For the sixth time within a period of fifteen years, Wyoming was completely destroyed. But some of the people, still unsubdued, soon began to return, and, although prowling bands of savages long continued to prey upon the settlement, it gradually recovered itself.

The dreadful massacre thrilled the heart of the country, and of Europe, and made friends for the American cause beyond the sea. It stands in history one of the most bloody deeds that the American savage ever wrought upon the White Man. The poet Campbell sang the story in his poem called "Gertrude of Wyoming." Near Wilkesbarre stands a granite monument, sixty feet high, that commemorates the dead settlers who were buried on the spot. Soon after General Sullivan, with a strong force, invaded the country of the Six Nations, and inflicted upon them a dreadful vengeance.

124. The Trenton Decision. — The Articles of Confederation, which were the American constitution from 1781 to 1789, provided means for settling territorial disputes between States. A Federal court should be organized to try and decide such cases. Such a court, called for by Pennsylvania, met in Trenton, New Jersey, to try the ownership to Westmoreland. On December 30, 1782, this court decided that the right and title to all the lands lying within the chartered boundaries of Pennsylvania which Connecticut had claimed, belonged rightfully to Pennsylvania. Connecticut accepted the verdict in good faith, and in this form the long controversy now closed.

125. New Question of Title.—The Trenton decision did not bring peace to Wyoming. Several thousand people were now left without legal titles to their lands and homes. These people had come to the country thinking their title perfectly good; they had not made the old quarrel between Connecticut and

the Penns; they had cleared away the forests and planted civilization, and the Legislature of Pennsylvania should at once have passed an act giving them secure titles to their lands. But this was not done and there ensued another long and trying struggle.

126. Settlement Reached.—Gradually the intelligence and moral sense of the State began to be aroused. The better element began to feel that great injustice was being done to the people of Wyoming. In the course of time, through various acts of legislation and various decisions of the courts, the old wrongs, as far as possible, were righted. The State confirmed the honest titles of the Connecticut claimants, and compensated from the treasury Pennsylvania claimants of the same land, provided they had acquired their claims before 1787. Final action was taken in 1807, when 1,745 titles, covering about 300,000 acres, or seventeen townships of land, were finally confirmed to Connecticut claimants.

127. New State Project.—One feature of the later controversy was the proposition to erect Westmoreland into a new State. This scheme created much interest in New England and in New York. A constitution was drawn up and State officers were agreed upon. Fortunately, however, the State legislature began to change its course, wiser councils prevailed in Westmoreland, and the new State project was abandoned.

128. The Schools of Wyoming.—The Connecticut men who came to Wyoming played an important part in the history of the State. For example, they set up in Westmoreland, as far as possible, schools like

those that they had left behind them in Connecticut, and when the time came these schools were merged into the State system of public instruction, upon the formation of which they exerted a considerable influence. It was Timothy Pickering, one of these Connecticut men, who secured the incorporation of the educational provision in the Constitution of 1790.

CHAPTER XII

EDUCATION

129. First Colonists on the Delaware.—The first colonists on the Delaware came from countries that were well advanced for the time in education. Both the Swedish and the Dutch authorities at home promptly enjoined their colonists in America to establish schools and instruction. But the difficulties in the way were great and little was done. The Duke of York, in his laws, directed that children and servants should be instructed in religion, the laws, and some honest calling; but his legislation was never practically enforced. So down to the coming of the Quakers education on the Delaware existed only in a rudimentary condition.

130. Penn's Views and Plans.—William Penn was not only an educated man himself, but he believed thoroughly in education, and particularly in popular education. His political and religious principles ran strongly in that direction. He believed in trusting the people in matters both of state and church. In the first Frame of Government, he said the governor and provincial council of the province should erect and order all public schools and encourage the authors of useful sciences and laudable inventions in the province. He held it to be the duty of the government, as a trustee for the youth, to maintain schools and teaching. Furthermore, he saw the relation that should

exist between education and government. "If we would preserve our government," he wrote, "we must endear it to the people," and he accordingly urged education as one mode of doing so. In respect to methods of teaching, also, Penn was far in advance of his time. For example, he pointed out the relation of things and words in instruction, a matter that few then understood.

131. First Legislation.—The first general assembly of the colony legislated on education among other subjects. It provided for instruction in civics; the laws should be published and printed, so that every person might have a knowledge of them, and they should be one of the books taught in schools. The second assembly said education should be compulsory. (1) All parents, guardians, and trustees of children should have them taught reading by the time they were twelve years old; (2) they must also see that they were taught some useful trade or skill; and (3) if they neglected these duties they should be fined five pounds for every neglected child. The second Frame of Government declared that one-third part of the provincial council, together with the Governor, should, along with other things, have the management of the good education of youth and the sobriety and manners of the people.

132. The Result. — It is clear that Penn and his associates contemplated the creation of a system of public education to be maintained by the Colony. But, most unfortunately, this was not done. The legislation described above soon disappeared from the statute book, and the Frame of Government that Penn

gave to the colony in 1701, which was its constitution for seventy-five years, was wholly silent on the subject of education. Apparently Penn was too far in advance of his time.

133. First Schools Established.—It would be a mistake to conclude that there were no schools in early Pennsylvania. There were, but they were established and carried on by individual or associational effort. The General Assembly passed laws to facilitate the maintenance of schools by churches, religious societies, etc. The Friends' Public Grammar School opened in Philadelphia in 1689. This celebrated school, afterward known as the William Penn Charter School, was formally incorporated in 1697, and is still in vigorous life. It is the oldest school in Pennsylvania, and one of the oldest in the United States. It is not, however, and never has been a public school or a free school, in the American sense, but rather a Latin school, intended for pupils able to pay their tuition bills, unless in special cases. Other schools, but none so permanent as this one, were established by the Quakers in the early days.

134. State of Education Previous to 1834.—We cannot here follow the history of education from these early times down to the appearance of the present State school system. Were we to do so, we should bring into view many interesting facts—the work of the Lutherans and Rev. Dr. Muhlenburg, the Reformed and Rev. Michael Schlatter, the Episcopalians, the Quakers, and the Scotch-Irish. Church schools and private schools were mainly relied upon until after the close of the Colonial period. There were no State

systems of public instruction in the country in those days outside of New England, and Pennsylvania was not better off than her neighbors. There was, as a matter of course, great educational destitution, large numbers of people having no school education whatever.

135. Neighborhood Schools.—It was impossible for the church schools and the private schools to supply education for all the children that wanted it. They were too few in number and too deficient in teachers, while many children lived at too great a distance from the schools that actually existed. Accordingly there arose a class of schools supported by coöperative effort that were sometimes called neighborhood schools. It is said that in 1834 there were at least 4,000 schoolhouses in the State that had been built by voluntary coöperative enterprise.

136. Pauper Schools.—The Revolutionary War brought some quickening of interest in education. There was inserted in the State constitution of 1790 the following provision:

"The Legislature shall, as soon as conveniently may be, provide by law for the establishment of schools throughout the State in such numbers that the poor may be taught gratis."

In the schools that were created by the Legislature in pursuance of this clause the teaching of the children of the poor was made free, but the rich and the well-to-do were required to pay tuition fees, if their children attended at all. This discrimination of classes made the schools odious to rich and poor alike; they were poor schools, and very naturally were nicknamed

"charity" and "pauper" schools. They did some good in their day, but manifestly they were only a half-way house from no public schools at all to good public schools.

137. The Common School Revival.—The early part of this century saw a new development of interest in education in all the progressive countries of the world. In the United States men began to appreciate the golden words of Washington: "In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened." Gradually public sentiment crystallized in the maxim, "The property of the state should educate the youth of the state."

138. Free Schools Won.—The new educational ideas early declared themselves with force in Pennsylvania. In fact, they were only the ideas that William Penn had vainly sought to fix in the institutions of his colony at the beginning. The most enlightened men now saw that schools adequate to the needs of the people would never be provided until the Commonwealth itself should provide them. There was much indifference and positive opposition to be overcome before the end could be reached; but in 1834 the Act to Establish a General System of Education by Common Schools was placed on the statute book. This act was very imperfect, but it was progressively improved until it gave the State her present magnificent system of public schools.

In the free school contest educators and public men worked nobly together to win schools for the children of the State. Three chief magistrates rendered par-

ticularly valuable services, Governors Schulze, Wolfe, and Ritner. It was Wolfe who signed the act of 1834.

139. Opposition to Free Schools.—Unfortunately, the opposition to free schools did not disappear with the passage of the Free School Act, but rather grew stronger. There were many kinds of opposition. Some men opposed free schools because they were new; others because they had no sympathy with popular education, and did not wish to be taxed for its support. Many of the churches had founded schools, and their members could not always see reasons why these schools should be abandoned and they should be taxed to provide new ones. Some men strangely held that the general education of the people would lead to idleness, dishonesty, and vice. Many persons of German descent were strongly attached to the German language, and they feared that the new State schools, in which all teaching was to be in English, would tend to drive the language out of use.

140. Attempt to Repeal the Act.—A vigorous attempt was made in the next legislature to repeal the Free School Act. The friends of education, however, rallied to its support, and not only defeated the attempt, but even secured some valuable amendments to the act itself. This was the real end of the contest; the principles of William Penn had finally triumphed.

The most notable feature of this struggle was the speech delivered in the house of representatives in favor of the act by the Hon. Thaddeus Stevens, afterward so prominent in National affairs. Not long

before his death Mr. Stevens said he had done nothing in the whole course of his public service upon which he looked back with so much pleasure and pride as upon his defense of the free school system of his adopted State.

141. Normal Schools.—The educational revival was a loud call for properly prepared teachers, and normal schools soon began to appear in answer to the call. There is reason to think that the first school in the country created for the express purpose of preparing teachers was the model school of Philadelphia, the doors of which were opened about 1818. Beginning with the year 1859, the State has established thirteen Normal Schools.

142. Progress of Popular Education.—Since 1834 the common schools of the State have made great progress. In that year the total fund available for common school purposes was only $546,000; in 1896–97 the money actually spent for common schools was $19,618,000. In the year just named there were 14,620 school-houses, 27,429 teachers, 1,399,763 pupils enrolled in schools, and an average daily attendance of 837,871. Pennsylvania surpasses all the States but New York in the magnitude of her common school statistics.

143. University of Pennsylvania.—This institution had its small beginning in the Academy and Charitable School opened in Philadelphia in 1749. Dr. Franklin was the most active man in founding it and in determining its character. It was established by private subscriptions, but the city council soon appropriated money to its support. The Academy

prospered, and in 1753 became Philadelphia College, with authority to confer degrees. In the Revolutionary War the Legislature took away its charter, but afterwards restored it and raised the college to the rank of a university. Now it is not only the foremost institution of learning in the State, but also one of the foremost in the country.

144. Girard College.—In some respects this is the most remarkable educational institution in the United States. Mr. Stephen Girard, a merchant and banker of Philadelphia (born in Bordeaux, France), on his death, in 1821, left to his adopted city, in trust, a large sum for founding and maintaining a permanent college for the education of white male orphans. This college, which takes its name from the founder, was opened for the admission of pupils in 1848, and down to January 1, 1898, had received as many as 5,725. The property originally left to this noble institution has increased in value, until in 1898 it was estimated at $26,925,000. Girard College, together with all its endowments, is managed by the board of directors of city trusts.

145. Other Schools.—Lack of space will not permit a more extended view of the schools and institutions of learning that to-day exist in Pennsylvania. It must suffice to say that the State is well furnished with means of education of all kinds, private and public, elementary, secondary, and higher, liberal and professional. The City of Philadelphia has long been famous for its schools of medicine.

CHAPTER XIII

LINES OF PROGRESS

To give an adequate idea of the growth and greatness of Pennsylvania, would be an undertaking too large for the compass of this work. Space can be spared for but a limited number of topics.

146. Population.—In 1775 the State stood below both Virginia and Massachusetts in population; in 1790, the date of our first National census, and again in 1800, below Virginia alone. In 1810 New York became second and Pennsylvania fell to third. In 1820 New York held the first place, Virginia the second, and Pennsylvania the third. In 1830 New York held the first place and Pennsylvania the second, and this relation has continued to the present time. However, since 1860 Pennsylvania has been steadily gaining on her rival.

At the successive censuses the population of the State has been as follows:

1790	434,373	1850	2,311,786
1800	602,365	1860	2,906,213
1810	810,091	1870	3,521,951
1820	1,047,507	1880	4,282,891
1830	1,348,233	1890	5,258,014
1840	1,724,333		

147. Slavery in Pennsylvania.—African slavery was established in Pennsylvania and existed there for years, the same as in the other English colonies. The truth is, however, that the first protest against it heard

in any of the colonies sounded out from Pennsylvania. In 1688 some Mennonites, of Germantown, sent a petition to the Quakers suggesting its abolition. Progressively, the Quakers accepted this idea until the whole body became permeated with it. In 1776 the Yearly Meeting, or highest ecclesiastical authority of the body, declared the independence of all slaves owned by Quakers, and directed the monthly meetings, or churches as we should call them, to exclude all members who did not comply with this action. In 1712 the Assembly passed an act to prevent the increase of slaves, but the Crown refused its concurrence. In 1780 the Assembly passed an act forbidding the importation of slaves and setting free all who were brought into or born in the State. The result was that slavery disappeared gradually as the slaves of 1780 died off, or were carried South and sold by their masters. In 1790 there were 3,737 slaves, in 1840 there were only 64.

148. Part in the Civil War. — The part that Pennsylvania bore in the Civil War was every way worthy of her. Led by Andrew J. Curtin, who was the War Governor, she supported the National government in every way possible. Her militia were the first troops to reach Washington when that city was first threatened in April, 1861, and afterwards they were frequently called out for the same purpose or for other important services. The State furnished, in response to the calls from Washington, 366,107 men, or 265,517 if the number is reduced to a three years' standard. There were 368 State organizations—254 regiments, 95 companies, and 19 batteries. The city

of Philadelphia alone furnished 80 regiments, a great army in themselves. The list of Pennsylvania officers who distinguished themselves would be a long one, while only a few can be named, as McClellan, Meade, Porter, Reynolds, Heintzelmann, and Hancock.

149. The State Invaded.—The State is readily accessible from the South, and west of Maryland it ran side by side with the Southern Confederacy. The Shenandoah Valley, in particular, was a great natural highway leading from the heart of the Confederacy to the south-central part of Pennsylvania. Accordingly, it became necessary in the war for her to defend herself against invasion. In spite of her vigilance, she was three times invaded. In the autumn of 1862, about a month after the battle of Antietam, General Stuart, with a command of about 2,000 men, made a raid to Chambersburg and captured the place, destroying much property and carrying off much booty. The next year General Lee, with his whole army, entered the State, coming by the way of the Shenandoah Valley and heading for Harrisburg and other points on the Susquehanna River. He was met by General Meade, in command of the Army of the Potomac, at Gettysburg, where was fought, July 2, 3, 4, 1863, the battle that proved to be the turning-point of the war. Never again did the fortunes of the Confederacy rise so high after the defeat that it sustained on this bloody field. Still the next year there was a second raid to Chambersburg, but less noteworthy than the former one. Measures were soon taken to make of a portion of the battlefield of Gettysburg a National cemetery, which is one of the finest of the kind

in the country. The National Government and other States whose troops fought here, as well as Pennsylvania, have contributed to the expense. It was on the dedication of this cemetery, July 4, 1864, that President Lincoln delivered his immortal Gettysburg address.

150. Occupations of the People.—In 1890 the population ten years of age and over employed in gainful occupations was 1,959,091 persons, distributed as follows:

Agriculture, fisheries, and mining	453,086
Professional services	75,080
Domestic and personal services	477,776
Trade and transportation	324,262
Manufacturing and mechanical industries	628,887

151. Agriculture.—Some parts of the State are rough or mountainous and infertile, but other parts have a rich soil and are very productive. The last description applies particularly to the southeastern quarter and to the central river valleys. Large quantities of the most productive lands early fell into the hands of the Germans, who soon made them the garden of the State, if not indeed of the country. At one time Pennsylvania stood first, or among the first, as an agricultural State; but this position she has now lost, owing to the growth of manufactures and commerce, and the development of the West. However, she is still a great agricultural State.

152. Mineral Productions.—In the production of coal and pig-iron, Pennsylvania far surpasses any other State in the Union, and in fact equals all others put together. Thus, in 1896, she produced 92,771,-

000 gross tons of coal to 78,645,000 produced in all the other States. The output of pig-iron the same year was: Pennsylvania, 4,024,000 tons; the rest of the Union, 4,594,000 tons.

153. Transportation.—The navigable rivers of Pennsylvania, together with Lake Erie, put the State in ready communication with the outside world, as well as bring different parts into easy connection one with another. But this extensive system of natural transportation has been supplemented by a still more extensive system of artificial transportation. The first internal transportation problem of a serious nature was to connect the great river valleys, and later tide-water, and the Western waters, by means of wagon roads. The Braddock Road was cut through from Cumberland, Maryland, on the Potomac River, to the Monongahela in 1754; the Forbes Road, which ran from the Susquehanna Valley to the Fork of the Ohio by the way of Fort Ligonier, in 1758. These roads were first intended for military purposes, but they also answered the ends of peace. Washington proposed, before the Revolution, that the Potomac and Ohio Rivers should be united by means of canals and wagon portages, but his scheme was never carried into effect. The Cumberland Road, also called the National Pike and the National Road, which connects Cumberland and Wheeling, runs for a considerable distance through the southern part of the State. This road was built by Congress early in the century, and in its day was an important thoroughfare. In 1816-24 the Union Canal was built from Reading to Middletown. In 1826 the State began to construct canals

in various parts, the greatest of its undertakings being the canal, with a road portage of thirty-seven miles over the mountains, that connected Philadelphia and Pittsburg. In all nearly one thousand miles of canals were built in the State, the larger part of which has been abandoned.

Pennsylvania invented two means of transportation that were very characteristic of early times. These were the Conestoga wagon, a strong but heavy vehicle drawn by six horses, which took its name from the Conestoga River, and the ark, invented by one Krudger, on the Juniata River, a clumsy river boat afterwards much used on the Ohio and the Mississippi.

154. Railroads.—The first railroad in Pennsylvania, and the second one in the United States, was built from Mauch Chunk to the Lehigh River in 1827 for the transportation of coal. On June 30, 1797, there were in the State 9,968 miles of single track railway mileage, which was the largest amount in any State except Illinois. Up to 1895 these roads had cost $798,740,000.00, and their gross earnings for that year were $149,000,000.00, which was far in excess of the earnings of the roads of any other State in the Union. *Old Ironsides*, the first railway locomotive constructed in the United States, was put on the Germantown and Norristown Railway Company's road in November, 1832. Miss Repplier gives this amusing account of the trial trip:

"Vast was the excitement it created, and vast the crowds that flocked to see it start, or—thrilling with conscious courage—take their places in the carriages it drew. Its utmost speed was thirty miles an hour,

and such admirable care did the company take of this new possesion that it was never permitted to run out carelessly in the rain. The following is the notice inserted in the *Daily Advertiser*: 'The locomotive engine (built by M. W. Baldwin of this city) will depart daily, when the weather is fair, with a train of passenger cars. On rainy days, horses will be attached.'"

155. Wealth.—In wealth, as in population, Pennsylvania has long stood next to New York. The total valuation of property of all kinds in 1890 was $6,190,746,550, nearly one-tenth of the total wealth of the Union. The average wealth of the population *per capita* was $1,177.00. In value of mines and quarries, including products on hand, the State was far in the lead of any other States, owning about 28 per cent of such property in the country.

156. Religion.—Pennsylvania has always maintained its early reputation for religious toleration. Most or all of the religious bodies met with in its early history still exist within its limits, and many more besides. Upon these the State government bestows, or rather to them it secures, equal rights. In 1890 the Commonwealth surpassed all others in the number of religious organizations and of church edifices, and in seating capacity, and fell behind New York only in value of church property and number of church communicants. The communicants were 1,726,640 in number, or 32 per cent of the total population.

157. Growth of Philadelphia.—From 1790 to 1820 Philadelphia was the second city in the Union in population and New York the first one. In 1830 Philadelphia stood below New York and Baltimore;

in 1840 below New York, Baltimore, and New Orleans, and in 1850, New York, Baltimore, and Boston. In 1860 she regained second place and held it until she lost it to Chicago in 1890. That year the population was 1,047,964.

158. Pittsburg.—Next to Philadelphia, Pittsburg has the most advantageous site and the most interesting history of any city in the State. Nature made the Fork of the Ohio an important spot. The Indian struggled against the White Man for its retention. Englishmen and Frenchmen fought for its possession, for both saw that it was the key to the Ohio Valley. Virginia contested its possession with Pennsylvania. In the course of a few years' time the French, the English, and the American flags successively waved over the site. In the Revolution Fort Pitt was an outpost against the Indians and their British allies at Detroit. After the war, the situation proved to be quite as important for peaceful as for warlike purposes; Pittsburg was the main doorway to the Great West. It was at the head of navigation on the Western waters, and thousands of emigrants here embarked for Ohio, Kentucky, and the regions beyond. Still later it became a great railroad center. With inexhaustible supplies of coal in the mountains behind, and admirable natural facilities for transportation in the Ohio before, the city has naturally become a great center of production and distribution. In 1892 the tonnage of freight originated at Pittsburg was 42,804,000 tons, which was said to be the largest amount originated in any city of the world. It took its present name from William Pitt, Lord Chatham, the great English min-

ister of the French and Indian War, and the great friend of the States in the Revolution.

159. Harrisburg.—The city of Harrisburg is situated at the crossing of the great road running westward from Philadelphia to Pittsburg by Lancaster and Carlisle and the Susquehanna River. The first permanent white settlement at this spot was made by John Harris, an Englishman, about 1726, who afterwards acquired a considerable tract of land, partly by grant from the Proprietors and partly by purchase from other grantees. He was an Indian trader. In 1755 the Penns granted to his son, John Harris, Jr., the right to establish a ferry over the river, and the place was long known as Harris's Ferry. The town was laid out in 1785, and it became the seat of justice of the new county of Dauphin, which took its name from the Crown Prince of France. The town also bore for a time the name of Louisbourg, in honor of Louis XVI, but in 1791 it was incorporated as a borough under its present name. It became the capital of the State in 1812. The old State House, begun in 1819, was first occupied in 1822.

160. Political Parties.—At the founding of the National government, the State inclined to the Federal party, but afterwards to the Democratic-Republican and Democratic parties. She cast her electoral votes for Washington in 1789 and 1793; for Jefferson in 1797 and 1805, and divided them between Jefferson and Adams in 1801. She voted for Madison in 1809 and 1813, Monroe in 1817 and 1821, Jackson in 1825, 1829, and 1833, and Van Buren in 1837. She voted for W. H. Harrison and Taylor, Whig candi-

dates, in 1841 and 1849, for Polk, Pierce, and Buchanan, Democrats, in 1845, 1853, and 1857. She gave her votes to Lincoln in 1861, and since that time has never failed to cast them for the Republican presidential candidates. From 1829 to the present time, save alone in 1893, she has uniformly voted for the successful presidential candidates. Hence the old saying, "As goes Pennsylvania so goes the Union." Since 1861, however, she has sometimes chosen Democratic governors.

Pennsylvania is emphatically a State of great political majorities; and this fact may be a reason why she has furnished only one president, James Buchanan, 1857–61.

161. Historical Position of the State.—The preceding sketch, brief as it is, makes very plain the fact that from the day Pennsylvania was founded she has held a commanding position among the American Colonies and States. Her Colonial history, in many respects, is absolutely unique; and instead of being dull and unattractive, as is sometimes thought, it is rather singularly picturesque, attractive, and instructive. The single fact that, within her boundaries, so many jarring races and nationalities, with different character, history, culture, and religion, have lived together in peace and grown into one great commonwealth which is comparatively homogeneous, is of itself a very instructive lesson. The name Keystone State, which is explained in another place, suggests the important place the State has held in politics. At present Pennsylvania holds, in some particulars,

and these very important ones, the first place in the Union; while in many others she stands second to New York alone. In peace and war, in industry and commerce, in politics and professional life, in education and religion, she has made a record that is an object of pride and affection to her adult citizens and a source of inspiration to their children.

80°
79°
78° Longitude West fr
42°
41°
40°
ERIE
CRAWFORD
WARREN
MCKEAN
POTTER
FOREST
VENANGO
MERCER
CLARION
JEFFERSON
CAMERON
ELK
LAWRENCE
BUTLER
ARMSTRONG
INDIANA
CAMBRIA
BLAIR
CENTRE
CLINTON
LYCOMING
SULLIVAN
ALLEGHENY
BEAVER
WASHINGTON
GREENE
WESTMORELAND
FAYETTE
SOMERSET
BEDFORD
FULTON
FRANKLIN
HUNTINGDON
JUNIATA
PERRY
Northville
Marysville
Wesleyville
Jamestown
Olean
Wellsville
Girard
Jackson
Platea
Waterford
Union Cy.
Corry
Sugargrove
Bradford
Kendall Cr.
Eldred
Genesee
Albion
Edinboro
Youngsville
Warren
Custer Cy.
Kinzua
Rixford
Oswayo
Shadeland
Cambridgeboro
Spartansburg
Garland
Stoneham
Mt. Alton
Coleville
Smethport
Port Allegany
Ulysses
Sabinville
Saegerstown
Riceville
Clarendon
Roulette
Coudersport
Sweden Val.
Linesville
Kerrtown
Meadville
Nobles
Tidioute
Mt. Jewett
Portage Cr.
Forest House
Gaskeo
Buchanan
Utusville
Hickory
Watsonburg
Sheffield
Kane
Clermont
Gardeau
Austin
Germania
Hartstown
Pleasantville
Rouseville
Oil City
Wilcox
Glenhazel
Sigerville
Emporium
Castello
Maynes
Reno
Pigeon
Johnsonburg
Ridgway
E. Emporium
Cowanesque
Hammondsleys Fork
Venus
Marionville
Hallton
Tylersburg
Portland Mills
Kersey
Dagus Mines
Driftwood
Bitumen
Renovo
Stoneboro
Franklin
Knox
Arthurs
Brockport
Keating
Susq. Westport
Sharpsville
Jackson Cen.
Pittsville
Clarion
Brookville
Reynoldsville
Dubois
Penfield
Clearfield
Curwensville
Cataract
Karthaus
Lockhaven
Sharon
Mercer
Centertown
Emlenton
Sligo
Summerville
Anita
Elkport
Bethlehem
Punxsutawney
Ansonville
Osceola Mills
Howard
Milesburg
Bellefonte
Grove City
Harrisville
Parkers Ld'g
Fairmount Cy
Millers Mills
Mahaffey
Gazzam
Brisbin
Houtzdale
Beccaria
Centre
Newcastle
Euclid
Hilliards
Petrolia
Rochester Mills
Kittanning
Irvona
Coalport
Phillipsburg
Lemont
Centerhall
Moravia
Elwood City
East Brady
Butler
Harmony
Herman
Ford City
Marion Centre
Westover
Port Matilda
Spring Mills
Bridgewater
Beaver
Industry
N. Brighton
Rochester
Monaca
Gallery
Saxsburg
Cochran Mills
Freeport
Indiana
Homer City
Ebensburg
Carrolltown
Hastings
Patton
Spangler
Barnesboro
Portage
Gallitzin
Tyrone
Penn Furnace
Mooresville
Lewistown
Woodlawn
Bakerstown
Tarentum
Natrona
Apollo
Kent
Saltsburg
Vintondale
Belwood
Petersburg
Bellefonte
Sewickley
Glenfield
Verona
Harmarville
Avonmore
Export
Blairsville
Seward
Bennington
Duncansville
Hollidaysburg
Roaring Spr.
Martinsburg
Mt. Union
Allegheny
Pittsburg
Braddock
Jeannette
Greensburg
Derry Sta.
Latrobe
Crab Tree
Bradenville
Johnstown
Southfork
Loretto
Huntingdon
Canonsburg
Meadowlands
Elizabeth
Irwin
Westmoreland
Ligonier
Fostoria
Claysburg
Martinsburg
Saxton
Orbisonia
Washington
Bellevernon
Mt. Pleasant
Jeanes
Stoystown
Osterburg
Loysburg
Hopewell
Three Springs
Claysville
Coal Centre
California
Fayette City
Everson
Friedens
Shanksville
Everett
Fannettsburg
Scotland
W. Brownsville
New Haven
Somerset
Bedford
Chambersburg
Ninevah
Dunbar
Connellsville
Buffalo Mills
McConnellsburg
Jefferson
N. Lexington
Bockwood
Berlin
Richmond
Uniontown
Perry
Ohiopyle
Garrett
Williams
Clearville
Waynesburg
Fairchance
Markleton
Hyndman
Mercersburg
Greencastle
Wynnesboro
Smithfield
Confluence
Cooks Mills
Buck Valley
New Freeport
Greensboro
Mt. Morris
Port Marion
Elklick
Mercersdale
PENNSYLVANIA
Scale of Miles
0 5 10 20 30 40 50
M A R
Hagerstown
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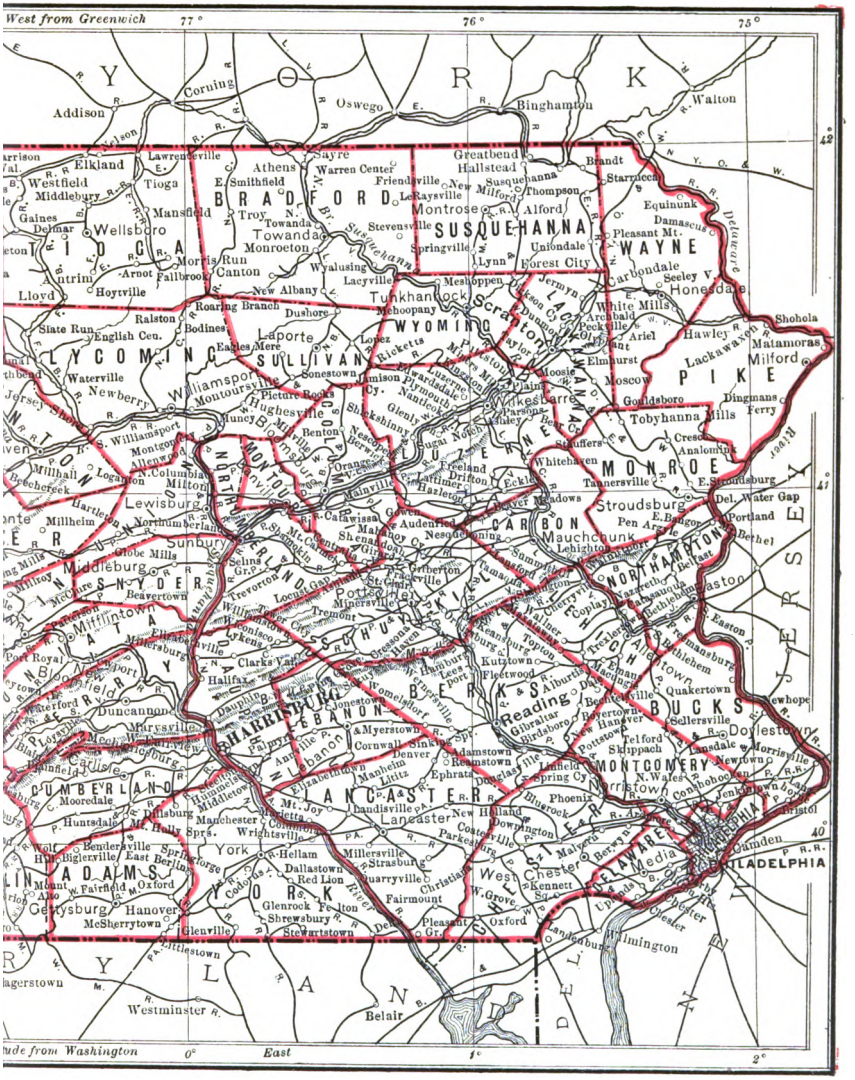
West from Greenwich
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Addison
Corning
Oswego
Binghamton
Walton
Elkland
Lawrenceville
Athens
Sayre
Greatbend
Hallstead
Brandt
Starrucca
Westfield
Middlebury
Tioga
E. Smithfield
Warren Center
Friendsville
New Milford
Susquehanna
Thompson
Gaines
Delmar
Mansfield
Troy
Towanda
Montrose
Alford
Equinunk
Damascus
Wellsboro
Monroeton
Stevensville
Springville
Uniondale
Pleasant Mt.
Forest City
Antrim
Morris Run
Canton
Fallbrook
Wyalusing
Lacyville
Lynn
Carbondale
Seeley
Honesdale
Lloyd
Hoytville
Arnot
New Albany
Meshoppen
Tunkhannock
Jermyn
White Mills
Archbald
Peckville
Ariel
Slate Run
English Cen.
Ralston
Roaring Branch
Dushore
Bodines
Laporte
Eagles Mere
Lopez
Ricketts
Mehoopany
Dunmore
Olyphant
Elmhurst
Hawley
Shohola
Matamoras
Milford
Waterville
Newberry
Williamsport
Montoursville
Picture Rocks
Muncy
Sonestown
Jamison Cy.
Nanticoke
Wilkesbarre
Moscow
Goldsboro
Tobyhanna
Mills
Dingmans Ferry
Millheim
Logan
Columbia
Milton
Lewisburg
Northumberland
Sunbury
Middleburg
Selins Grp.
Globe Mills
Beaverstown
Hughesville
Benton
Shickshinny
Glenn
Nescopeck
Berwick
Orangeville
Freeland
Drifton
Hazleton
Whitehaven
Tannersville
Stroudsburg
Del. Water Gap
Portland
Bethel
Pen Argyl
Bangor
Mauch Chunk
Lehighton
Weissport
Palmerton
Slatington
Northampton
Bethlehem
Easton
Phillipsburg
Lewistown
Mifflintown
Port Royal
Newport
Millerstown
Ellistown
Clarks Ferry
Halifax
Duncannon
Waterford
Liverpool
Perry
Newport
Shermans Dale
Landisburg
Loysville
Newville
Carlisle
Mechanicsburg
Harrisburg
Hummelstown
Palmyra
Myerstown
Cornwall
Sinking Spg.
Womelsdorf
Robesonia
Wernersville
Shoemakersville
Kutztown
Fleetwood
Lenhartsville
Hamburg
Reading
Gibraltar
Birdsboro
Douglassville
Boyertown
Bechtelsville
Quakertown
Sellersville
Perkasie
Doylestown
Telford
Skippack
Lansdale
Morrisville
Newtown
Norristown
Conshohocken
Jenkintown
Bristol
Camden
Mooreland
Huntsdale
Mt. Holly Spgs.
Dillsburg
Manchester
Wrightsville
Columbia
Marietta
Mt. Joy
Lancaster
Landisville
Lititz
Manheim
Ephrata
Adamstown
Reamstown
Denver
Leola
Spring Cy
Blue Rock
Phoenix
New Holland
Downingtown
Parkesburg
Coatesville
Malvern
Media
Chester
Wilmington
Boulevalleville
Biglerville
East Berlin
York
Hellam
Millersville
Strasburg
Quarryville
Christiana
West Chester
Kennett Sq.
Mount Alto
W. Fairview
Oxford
Dallastown
Red Lion
Fairmount
Gettysburg
Hanover
McSherrytown
Glenville
Glenrock
Felton
Shrewsbury
Stewartstown
Pleasant Grp.
Oxford
Landenberg
Lagerstown
Westminster
Belair
Newark
Elkton
Rude from Washington
0°
East
1°
2°

PART II

THE GOVERNMENT OF PENNSYLVANIA

CHAPTER XIV

THE TOWNSHIP

162. Orders of Political Communities.—It must always be borne in mind that every citizen of the United States lives in several different political societies or governmental communities at the same time. He is, first of all, a citizen of the United States, then of the commonwealth or State in which he has his residence, unless he lives in the District of Columbia or one of the Territories, next of the county, and lastly of the township or some similar political unit or division. This means that the citizen is subject to several grades of political authority or government, for each kind of governmental society or community has its own officers who direct public affairs each within its prescribed sphere of action. Matters of the greatest dignity and most far-reaching importance belong to the National government; a different class of affairs, but still those of great importance, constitute the governmental sphere of the State. Local government is commonly, but not always, divided between the county and the township, matters of more general importance falling to the county and those of less importance to the township.

163. Township Government.—The township is the simplest governmental community found in Pennsylvania. In area and population townships vary considerably, but generally the extent of territory that they embrace and the number of people that they contain is small. Their form, size, etc., can be studied to advantage on any good county map. Long ago the whole territory of the Commonwealth was laid out into townships, for the first settlers were perfectly familiar with the similar political division with its similar form of government in England. Still new townships are organized from time to time as they are called for, the territory of the new township being taken from one or more old ones. In such cases the appropriate action is taken by the county court.

Every township, then, is the creation of law, and constitutes what is called a corporation. In the Western States the civil townships are based on surveys made by the National government, and are uniform in size.

164. Elections, Qualifications, Vacancies, Etc.—The election of township officers occurs annually on the third Tuesday in February. No person is eligible to any office unless he is a voter in the township in question. Newly elected officers enter upon their duties on the first Monday in March next after their election, except school directors, whose term begins the first Monday in June. Every such person, before entering upon the duties of his office, must take an oath that he will support the constitutions of the United States and of Pennsylvania, and faithfully perform the duties of his office. In addition

to this, those officers whose duties involve the handling of public funds are required to give bonds. If vacancies occur between elections they are filled in most cases by appointments made by the county courts.

165. Township Officers.—The laws of Pennsylvania provide for the following township officers: Supervisors, overseers of the poor, justices of the peace, constable, assessor with assistants, tax-collector, auditors, school directors, clerk, and treasurer.

166. The Supervisors.—There are three supervisors in office at any given time, one being elected annually for a term of three years. Their principal duty is to direct the construction and repair of township roads and bridges. They divide the township into road districts, and appoint roadmasters to oversee the laborers and report to the supervisors. They levy the annual road tax and place the duplicate for collection in the hands of their treasurer, whom they appoint outside of their own body. The supervisors also exercise for the township the powers which it possesses as a corporation, such as acquiring and disposing of property, and being a party to suits at law. In certain counties also these officers are the overseers of the poor. Their compensation amounts to $1.50 for each meeting held to transact public business; and they may meet for such purpose once a month.

167. Overseers of the Poor.—In some parts of the State the care of the poor belongs to the jurisdiction of the county, and there are county almshouses. Where this is not the case, the townships elect two overseers of the poor who are responsible for

the care of this unfortunate class of persons. These officers fix the amount of the poor tax and expend the same in sustaining paupers in their own homes or paying others to take care of them. There are two overseers of the poor, one being elected annually for a term of two years. They receive a small compensation from the poor fund. In some townships, the supervisors are overseers of the poor, as stated above.

168. Justices of the Peace.—In order to secure to people their rights, punish offenders against the laws, and so to maintain public order, we have courts of justice. Each of the several governmental communities enumerated above, as the Nation, the State, etc., has its own court or system of courts. The township court is of the simplest kind; the officers who compose it are the justice of the peace and the constable. The principal duty of the justice in criminal matters is to issue warrants for the arrest of persons suspected of crime, and to give preliminary hearings. Except in case of minor offenses, the accused person is sent up to the county courts for trial, if the evidence is against him.

In civil cases not involving more than $5.33 the justice of the peace has final jurisdiction; but beyond that amount an appeal may be taken to the higher courts. Subject to the right of appeal, he has, however, a jurisdiction over cases not involving more than $300, and he commonly disposes finally of those not involving more than $100. Justices of the peace also administer oaths, take acknowledgments of legal documents, issue certain legal writs, and solemnize marriages. Each township elects two justices, and

the term of office is five years. Before entering upon his duties a justice of the peace must be commissioned by the Governor. In some townships, it is customary for only one of those elected to take out his commission. The compensation of this officer consists of fees.

169. The Constable.—The constable is the ministerial officer of the township court. He carries out the orders of the justice of the peace, making arrests, executing search warrants, subpœnaing witnesses, selling goods that have been levied upon to satisfy debts, etc. The constable also has duties to perform relating to the elections. He gives public notice of an election, preserves order at the polling place, and delivers certificates of election to township officers. The constable's term of office is three years. His compensation consists of fees.

170. The Assessors.—The principal duty of the assessors is to make lists of the names of all taxable persons in the township, including a description and valuation of their property that is subject to taxation according to law. Such lists are necessary to enable the officers who levy the taxes, as well as those who collect them, to perform their duties. One assessor is elected for a term of three years, and in the last year of his term two assistants are chosen for a single year. In these third years there is a general assessment of all the taxable property in the township; in the other two years the regular assessor merely corrects the lists in those cases where property has changed hands, has been improved, impaired, or destroyed, and adds to it new investments of capital. This correction relates more especially to real estate.

The assessor also prepares annually the registry list of all persons in the township who are qualified to vote. He also makes an annual enrollment of the militia. The compensation of the assessor and assistants is $2.00 for each day devoted to the duties of office.

171. The Tax-Collector.— The tax-collector is elected for a term of three years. His duties are to receive the tax duplicates from the officers who have made levies, and attend at a stated place, at the time required by law, to receive taxes and issue receipts to the tax-payers. In some cases, he collects for the State and county as well as for the township. However, there are many exceptions to this, as will appear in the chapter on Taxation. Such part of the road tax as is paid up to a certain date is collected by a treasurer appointed by the road supervisors. The school tax is sometimes collected by a collector appointed by the school directors. The tax-collector's compensation is a percentum of the moneys handled.

172. The Auditors.—These officers are the township book-keepers. It is their duty to examine and adjust the accounts of all those officers who receive or expend township funds. They publish annually an itemized statement of the receipts and expenditures of such officers. There are three auditors in office at a time; the term of office is three years, and one is elected annually. Their compensation amounts to $2.00 for every day devoted to official business.

173. The School Directors.—For the regulation of school attendance, the township district is divided into sub-districts; the rule is that children must attend school within their own sub-districts. But these sub-

districts are not political communities. The officers in charge of the schools, who are called directors, are township officers; but their duties can be more advantageously considered in the chapter on the School System of the State.

174. The Clerk.—It is the duty of the clerk to act as recording officer for the supervisors, and to keep the township records; also to keep a record of any stray animals that are reported to him. This office is comparatively unimportant, and in many instances it is left unfilled.

175. The Treasurer.—In certain parts of the State township treasurers are elected. Their duty is to receive and to have the charge of the township funds.

176. Lack of Uniformity.—The constitution puts restrictions upon special or local legislation in favor of any township, but special laws of an earlier date than the present constitution are still in operation. Hence there are numerous differences between townships and exceptions to general rules.

177. Local Self-Government.—All English-speaking peoples are very jealous about local self-government. That is, they believe in keeping as many powers of government as is consistent with the general good within the several local communities. They are strongly opposed, as a matter of habit, to the opposite system, which centralizes power in some distant authority, as that of the State or Nation. At the same time, there are different methods or systems of local government in the United States, as follows:

1. In the New England States the town system prevails. The county indeed exists, but it is not

prominent in governmental affairs. In the town, or township to use the Pennsylvania word, as the name implies, most of the local powers of government are lodged.

2. In all the Southern States, and in some of the Western ones also, we find the county system. Here there are no towns or townships, properly so-called, and all local powers are vested in the county. The county may be divided into districts called by various names, for the determination of election precincts or the jurisdiction of a justice of peace, but these divisions have no political importance.

3. The mixed or compromise system is found in the other States, including Pennsylvania. It divides the local powers somewhat evenly between the township and the county, as is explained in this chapter and in the following one.[1]

QUESTIONS FOR INQUIRY AND DISCUSSION.

1. What is really involved in the process called giving bonds?

2. Why are township officers that handle money required to give bonds while others are not?

3. Why not have a complete assessment of property made every year, as there is in some other States?

4. What are the advantages of local self-government over centralized government?

5. Which is the best of the three American systems of local self-government?

6. Why not throw the duties now performed by the township upon the county?

7. What is a tax duplicate?

[1] *The American Government*, Sections 68-82; 716-741.

CHAPTER XV

THE COUNTY

178. History of Counties.—The county is the political and territorial division intermediate between the township and the State. In the charter given by Charles II. to William Penn occurs the following language: "And we do further . . . . give and grant unto the said William Penn, his heirs and assigns, free and absolute power to divide the said country and islands into towns, hundreds, and counties, and to erect and incorporate towns into boroughs and boroughs into cities," etc. In 1682 were organized the three original counties, Chester, Philadelphia, and Bucks. Every county that has been erected since has been formed out of land detached from some county older than itself. An act of the General Assembly passed in 1834 recognized fifty-two counties, and fifteen have been organized since that time, making a total of sixty-seven. The youngest county is Lackawanna, erected in 1878.

In area and population the counties of the State differ very greatly. The constitution specifies, however, that no new county shall be organized such that it, or any county from which territory is taken to form it, shall have, as a result, an area of less than 400 square miles or a population of fewer than 20,000 inhabitants.

179. County Towns.—Because the authority of

the county government extends over a considerable area, it is necessary that some town shall be fixed upon as the seat or center of the government. This is called the county town, and it stands in the same relation to the county that the capital city does to the State. Here are found the court house, jail, and the offices of the various officers.

180. County Officers.—The county is of great importance in the administration of the State government. In order to give this fact due emphasis, it is convenient to present the county officers in two groups, executive and judicial. The members of the first group are the commissioners, treasurer, auditor or controller, directors of the poor, mercantile appraiser, superintendent of public schools, and surveyor. The judicial officers are the sheriff, coroner, prothonotary, clerk of courts, register of wills, recorder of deeds, district attorney, solicitor, and jury commissioners. In some counties associate judges and prison inspectors are also found.

181. Elections, Terms, Qualifications, Etc.—County elections are held simultaneously with State and National elections, viz., on the Tuesday next after the first Monday in November. The constitution provides that every county officer shall enter upon his duties on the first Monday of January next after his election, and that his term of office shall be three years. It prescribes as qualifications on the part of candidates eligible to office, citizenship and residence in the county during the year next preceding their election, if the county shall have been so long organized. It is further provided that these officers shall

take an oath of office prescribed by the constitution. Furthermore, those officers who handle public funds are required to give bonds to guarantee the faithful performance of their duties, in sums fixed by law, with a specified number of sureties. Casual vacancies in the several offices are usually filled by appointments made by the court of common pleas. The constitution declares that the compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fines that they are authorized by law to receive into the treasury of the county or State, as the law may direct. In counties containing over 100,000 inhabitants county officers are paid a fixed salary. The law regulating this matter fixes several grades of salaries according to the population of the county.

182. The Commissioners.—The officers who transact the general business of the county are the commissioners. In them are vested the powers which the county possesses as a body corporate and politic, viz., to be a party to suits at law, to acquire, hold, and dispose of property, to enter into contracts, etc. They have power to borrow money on the credit of the county and issue bonds for the same. They levy the general county taxes, provide the official buildings at the county town, and see that they are properly furnished and kept in repair. They also construct and keep in repair those roads and bridges the importance and cost of which place them beyond the sphere of township officers. They are required to publish annually an account of the moneys received and expended by them. Every county elects three com-

missioners once in three years. In order to secure the representation on the board of more than one political party, no elector is allowed to vote for more than two candidates at the same time. The county commissioners also perform important duties in connection with the elections. They provide voting rooms, with necessary furniture, have the ballots and cards of instruction printed, etc.

183. The Treasurer.—This officer receives, has the custody of, and disburses the county funds. In some counties he is tax-collector; in others he receives from township tax-collectors the proceeds of those taxes that are levied by county and State authorities, and then settles for the State taxes with the State treasurer. He pays out the county's money only upon warrants drawn by the county commissioners or other officers designated by law. The county treasurer must make regular financial statements to the commissioners and keep his accounts open to the inspection of the auditors or controller. The same person is not allowed to fill the office of treasurer two terms in succession.

184. The Auditors.—The office of auditor, in township, city, county, and State, serves as a guard over the treasury and every other office in which public funds are handled. It secures the keeping of the public accounts in duplicate by independent departments.

The county auditors adjust the accounts of the treasurer and of such other county officers as handle county funds. They have the power, when necessary to the performance of their duties, to subpœna as a witness and put under oath the officer whose accounts

are under examination, as well as other witnesses. They report regularly the state of the county finances to the State auditor. There are three auditors in a county elected all at the same time, but no elector may vote for more than two of them. In Philadelphia county and Allegheny county the powers of the auditor have been vested in a county controller for many years. This arrangement was extended in 1895 to all counties having a population of not less than 150,000.

185. The Directors of the Poor.—In about half of the counties in the State the relief of paupers is left in the hands of township or city officers. Nevertheless, laws have been enacted empowering county commissioners to erect and equip county almshouses, and in those counties where this has been done directors of the poor are elected who act in place of township or city officers. These directors have control of the county almshouse and direct the poor relief. There are three of them, one being elected every year.

186. The Surveyor.—The principal business of this officer is to make surveys of boundary lines within the county that are disputed in the courts. He also makes surveys for the opening of new roads and the placing of new bridges. The office has come to be of little practical importance.

187. The Mercantile Appraiser. — This officer may be regarded as an assistant assessor of peculiar importance. His business is the investigation of the amount of sales made by dealers in merchandise and the classification of such dealers with reference to charges for business licenses. These license charges

are a special form of State tax. The mercantile appraiser is appointed annually by the county commissioners. His compensation takes the form of a fee for each license issued. In Philadelphia mercantile appraisers are appointed by the auditor-general of the State and the city treasurer.

188. The Superintendent of Public Schools.— The county constitutes a school district for the purpose of supervision. The duties of the county superintendent of schools are considered in the chapter in which the school system of the State is described.

We pass now to the officers of the judicial group.

189. Civil and Criminal Cases at Law. — In order to define the different kinds of county courts, it is necessary to distinguish between civil and criminal suits at law. That there is such a distinction has been implied in the paragraph about justices of the peace. A civil suit is one brought to collect a debt, to recover damages, or to secure civil rights. It is commonly instituted by some person or corporation, but may be instituted by bodies politic and corporate. A criminal suit, on the other hand, is brought to convict a prisoner who is charged with crime, provided the evidence justifies conviction, and to inflict proper punishment upon him. A crime involves society and not merely a single individual, which is the reason why criminal cases are brought by the State through the agency of officers chosen for the purpose. The more serious crimes are called felonies.

190. County Courts.—The courts which sit at the county towns are the court of common pleas, which has jurisdiction only in civil cases; the court

of quarter-sessions, which tries cases involving lesser crimes; the court of oyer and terminer and general jail delivery, which has jurisdiction of felonies, and the orphans' court, which settles the estates of deceased persons. While there are several classes of courts, there is but one set of judges; that is, the same judges that hold the court of common pleas also hold the court of quarter-sessions, the court of oyer and terminer and general jail delivery, and the orphans' court. Although the county elects several officers to serve in the courts while they sit within its boundaries, it is not a separate judicial district, electing its own judge or judges, unless it has the requisite population. However, when two or more counties are united to form one judicial district, each county elects one or more associate judges.

191. The Clerk of Courts.—This officer is usually clerk both of the court of quarter-sessions and the court of oyer and terminer and general jail delivery. Frequently, too, the same person is also clerk of the orphans' court. The principal duties of the clerk of the courts are to attend personally all sessions of the courts, and make and certify to a detailed record of all their proceedings; to issue notices calling into court persons whom the judges desire to have attend; to call before the court jurors and witnesses, and to administer the prescribed oaths to them. The returns of township, borough, and city elections are filed with the clerk of the court of quarter-sessions. The business of the court of quarter-sessions, relating to liquor licenses and to opening roads and streets, is in his hands.

192. The Prothonotary.—This officer is the clerk of the court of common pleas. As such he is the custodian of the records of the court. All judgments and mechanics' liens are recorded by him. He makes an annual report to the secretary of the Commonwealth, showing the number of criminal cases tried, the acquittals and the convictions. He has charge of the seal of the court, which he affixes to all writs and documents issued by it. The returns of county, State, and National elections are made to him and filed in his office. In many counties the prothonotary is also clerk of the court of quarter-sessions and of the court of oyer and terminer and general jail delivery. Originally, the civil and criminal courts sitting in the county had always the same clerk.

193. The Register of Wills.—This officer makes a record of the wills of deceased persons that are brought to him for the purpose. He appoints administrators on the estates of persons who have died intestate, that is, without leaving wills. Executors of wills and administrators are required to consult him in the performance of their duties and to report to him final settlements of estates.

194. The Recorder of Deeds.—All papers used in making transfers of real property, or in encumbering it, the law requires to be recorded in the office of the recorder of deeds. Such papers are called deeds, liens, and mortgages, according to their nature, and they are often of the greatest importance in establishing property rights. In many counties the offices of register of wills and recorder of deeds are filled by the same person. In a few instances one person com-

bines the two positions of prothonotary and clerk of courts with these two offices.

195. The Sheriff.—The sheriff is the most familiar officer of the judicial group, being to the county what the constable is to the township. He is the conservator of the public peace throughout the county; in order to quell riots and disturbances, he may call upon the Governor for assistance. He is also the ministerial officer of all the county courts, serves all orders issuing therefrom, arrests persons suspected of crime, and brings them before the proper authority for a preliminary hearing; confines in jail persons awaiting trial who are not admitted to bail, and has charge of them during trial; preserves order at the sittings of the county court, and carries out the decisions rendered by the courts. Moreover, he has some duties relating to the elections, as will be shown in the chapter on that subject. No person is eligible to the office of sheriff for two terms in immediate succession.

196. The Coroner.—It is the duty of the coroner to hold inquests and to report his findings. An inquest is a formal investigation conducted by the coroner as judge over the dead body of a person who is suspected of having died by violence. The coroner may summon a jury of not more than six persons to his assistance. If the office of sheriff becomes vacant before the expiration of a legal term, the duties of that officer are performed temporarily by the coroner.

197. The District Attorney.—The district attorney is the agent of the State in bringing persons ac-

cused of crimes to trial. He prepares the formal charges against the accused and submits them to the grand jury, together with evidence going to substantiate it. When the trial is in progress he is the prosecuting officer.

198. The Solicitor.—The solicitor is appointed by the county commissioners. He is the legal adviser of the county officers and acts as counsel for the county in all civil suits to which it is a party.

199. Jury Commissioners.—It is the duty of the jury commissioners, together with the president judge or the additional law judge, to select from the list of qualified voters in the county such number of persons as shall have been designated at the last session of the court of common pleas to serve as jurors in the several courts of the county during the year. They meet at the seat of justice at least thirty days before the first sitting for the year of the court of common pleas. There are two jury commissioners, and they cannot serve more than two terms in succession. The drawing of juries is more fully noticed in the chapter on the Judiciary.

200. Prison Inspectors.—Nine counties have special prison inspectors, appointed by the courts or by the county commissioners, to serve for one year. The Philadelphia county prison has twelve such inspectors. The prison inspectors appoint the superintendent, matron, physician, warden, keepers, etc., of the prison; they have authority to discharge prisoners, and they receive and disburse funds used in carrying on the institution. In some counties the commissioners are prison inspectors *ex officiis*.

Questions for Inquiry and Discussion

1. The process of giving bonds, as it is called: Of what value is it to the public, and what does it consist in?

2. How will the rule denying an elector's right to vote for more than two candidates for county commissioners tend to secure a representation of more than one political party?

3. What is the object of having more than one party represented on the board?

4. Why should not a person be allowed to fill the office of county treasurer two or more terms in succession?

5. What is meant by subpœnaing a witness?

6. Why should deeds, mortgages, and the like be officially recorded?

7. Why not throw the duties now performed by the county upon the township?

8. Why not throw them upon the State?

CHAPTER XVI

THE MUNICIPALITY

201. Need of Municipal Government. — In densely populated districts of considerable size, township and county governments are found to be inadequate. The public safety and welfare have to be provided for in such manifold ways that a large number of local offices and executive boards are necessary. There is also need of numerous laws relating to local matters, and of special judicial authorities to punish offenders. The name of this complex type of local government is municipal government, and the communities governed in this way are called cities. Although in area they are generally only portions of townships, and in population not larger than counties, still in their organization they are miniature States; in fact, many of them are larger than some of the States of the Union. They have their own distinct legislatures, executives, and judiciaries.

Municipal government in Pennsylvania is as old as the State itself, having begun with Philadelphia, in 1682. The charter given by Charles II. to William Penn grants the power to erect and incorporate towns into boroughs and boroughs into cities.

202. The Charter.—The State constitution prevides that cities may be chartered whenever a majority of the electors of any town or borough having a population of at least 10,000 inhabitants shall vote at any

general election in favor of the same. A city charter may be defined as the fundamental law of the city. It describes the mode of government for the city, stating what powers it shall possess, and by what bodies and officers these powers shall be exercised. Thus, the charter of Philadelphia bears to that city much the same relation that the constitution of Pennsylvania bears to the Commonwealth. Charters are enacted by the General Assembly. The same law applies to all cities of the same class; or, all cities belonging to the same class have the same charter.

203. Classes of Cities.—The law classifying cities runs as follows: "For the purposes of legislation, regulating their municipal affairs, the exercise of certain corporate powers, and having respect to the number, character, powers, and duties of certain officers thereof, the cities now in existence, and those to be hereafter created in this Commonwealth, shall be divided into three classes."

Cities containing a population of 1,000,000 or over constitute the first class.

Cities containing a population of 100,000 and under 1,000,000 constitute the second class.

Those containing a population less than 100,000 constitute the third class.

All the cities in the State but three belong to the third class. Philadelphia is first class, Pittsburg and Allegheny City are second class. There are also boroughs, as we shall see hereafter.

204. Wards.—For convenience of administration, cities are divided into wards. In the assemblies, and often in the boards which constitute parts of the city

government, the ward is the common unit of representation. New wards may be created when there is need of them. In such cases a commission is appointed by the court of quarter-sessions of the proper county to investigate the subject; if this commission recommends the creation of a new ward, and the voters of the district affected, at a popular election, approve the recommendation, the ward is created.

205. Election and Qualification of Officers.—The elective officers of a city are chosen at a regular election held on the third Tuesday in February, and enter upon their duties, in most cases, on the first or second Monday in April following. Previous to entering upon their offices, they must qualify by taking the oath prescribed by law, and those who are to handle city funds must also give bonds, with a prescribed number of qualified sureties. There are also certain requirements as to the age of candidates for office, length of residence in the State, and in the city or district for which they are elected, etc.

206. The Legislative Department.—The city legislature consists of an assembly of two branches, called the select council and the common council. Every ward sends one member to the upper branch for a term of four years, and two members to the lower branch for a term of two years. Select councilmen must be at least twenty-five years of age, and common councilmen twenty-one years of age. The law allows regular meetings to be held twice a month. The laws enacted by the legislative assembly are called ordinances, and the mode of procedure in enacting them is similar to that followed in the State legislature.

The subjects of legislation are numerous and important, but pertain exclusively to local matters. They include the creation of subordinate offices, provision for appointments and removals, and the filling of casual vacancies; fixing salaries and amounts for which official bonds shall be given; appropriation of city funds to meet expenses and pay debts; borrowing money, issuing bonds, and creation of a sinking fund; opening of streets and squares, paving and grading; constructing sewers, supplying light and water, and regulating railroad crossings; establishment of a police department, the provision of lockups, the creation of a fire department, inspection of buildings, regulation of markets, ferries, and water courses; the establishment of hospitals and parks, creation of a charity department, regulation of weights and measures, etc. In general, it may be said that in the city the health, safety, convenience, and even the recreations of the people, as a whole, as well as the relief of the poor and the care of the defective classes, are entrusted to the government. The government of a city is also the sole provider for the people of various necessaries which people living in the country have to provide for themselves individually. The authority by which all this is accomplished is the city legislature, acting by means of ordinances.

207. The Mayor.—The chief executive officer of the city is the mayor. He is elected by the qualified voters for a term of three years. He must be at least twenty-five years old, and must have been a citizen and resident of the State for four years and of the city one year. It is his duty to preserve order, for

which purpose he is clothed with police powers. He must also see that all ordinances of the city legislature are carried into effect, as well as all laws of the Commonwealth relating to the city. He has supervisory authority over other city officers, can require of them information concerning the state of their departments, and report them for correction or punishment in case of delinquency. He makes appointments to fill almost all the subordinate offices that are created by ordinance, and in certain cases can exercise the power of removal.

In addition to his executive duties, the mayor has important relations to the legislative department of the city government. He must approve all ordinances passed by the councils, but those which he vetoes may become laws if passed a second time by a two-thirds vote of each of them. He sends to the councils an annual message at their first regular meeting in January, and special messages from time to time, as he thinks proper. In these communications he states the condition of the city government and recommends new measures. Still further, the mayor has certain judicial powers and duties which will be described under the city judiciary. The mayor's salary is fixed by an ordinance of the councils.

208. The Treasurer.—The city treasurer is elected at the popular election for a term of three years. His duties are to receive all moneys payable to the city, and to keep the city funds in banks or financial depositories, as the councils may direct; also to pay out all moneys owing by the city upon the presentation of warrants countersigned by the controller.

He must be a competent accountant, and keep accurate account of all the receipts and disbursements of his office, showing in every instance the source from which the money comes or the object for which it is paid out. His accounts must be verified monthly, or whenever demanded, to the satisfaction of a committee of the councils and the controller.

209. The Controller. — The controller is also elected for a term of three years. His duties are to examine, audit, and settle all accounts in which the city is concerned. He has power to administer such oaths as are necessary to the authentication of such accounts. He keeps books of account, showing all property belonging to the city, all trusts in its care, all debts and credits, all receipts and expenditures of each department of the government, and all appropriations made by the councils. The controller also countersigns all warrants drawn upon the treasurer. This office may, therefore, be defined as the book-keeping department of the city government. Its purpose is to secure accuracy and honesty in all the financial affairs of the government.

210. The Board of Health. —The law clothes the councils of any city of the third class with power to create a board of health. This must consist of five members, two of whom must be practicing physicians. They are appointed, one annually, for a term of five years, by the mayor by and with the advice and consent of the select council. The duties of the board are to look after the general sanitation of the city and prevent the spread of infectious diseases, making and enforcing such rules as are necessary for this purpose.

211. Water and Lighting Department.—The councils also have power to create a water and lighting department. This must consist of three commissioners, one representing each of the three districts into which the city is divided for this purpose. They are elected one annually by the councils in joint session, for a term of three years. They have charge of all matters pertaining to lighting and water supply, and employ a superintendent and clerk. They fix the water and lighting rates and provide for their collection. They make an annual report to the councils concerning constructions and expenditures, including recommendations for improvements in the system.

212. The Solicitor.—The city solicitor is appointed by the councils, instead of being elected by popular vote; his term of office is two years. He is the law officer, and his office is the law department, of the city. He must be learned in the law, and qualified to practice in the Supreme Court of the Commonwealth. The legal business of the city is in his hands. He prepares all contracts, bonds, etc., to which the city is a party, furnishes opinions on questions of law submitted to him by the city councils and officers, prosecutes all suits brought by the city, and defends the city and its officers in suits brought against them.

213. The Judiciary.—That class of judicial business which is performed in the county by justices of the peace is similarly provided for in the cities. Every ward is entitled to elect one alderman, who shall have the powers and duties of a justice of the peace. An appeal can be taken from the decisions of the alder-

man to the county court of common pleas. The mayor is also a judicial officer. He has, within the city, a criminal jurisdiction equivalent to that of an alderman or justice of the peace; but his civil jurisdiction is confined to actions involving penalties for the violation of city ordinances, or laws of the Commonwealth relating to the city. He can commit to the county or city prison for thirty days, or less, dissolute or disorderly persons in default of payment of fines or penalties. He can administer oaths, take acknowledgments of written instruments, and solemnize marriages. Like other magistrates, he is required to keep a docket and use an official seal. The important cases involving the laws of the Commonwealth that arise in the city belong to the jurisdiction of the county courts.

214. The Judiciary of Philadelphia.—The municipal judiciary of Philadelphia is differently constituted from that of the other cities. The office of alderman is abolished by the State constitution. It is further provided that there shall be established for each 30,000 inhabitants, one court of police and civil causes, with a jurisdiction not exceeding $100; that such courts shall be held by magistrates whose term of office shall be five years, and that these shall be elected on general ticket by the qualified voters; that they shall be compensated only by fixed salaries to be paid by the county; and that they shall exercise such civil and criminal jurisdiction as has been hitherto exercised by aldermen.

215. The Government of Philadelphia.—It is obvious that in a great city the executive departments

and the subordinate officers must be very numerous; that is, they must bear some proportion to the number of the people to be governed and the amount of public business to be done. Pennsylvania furnishes a striking example. Philadelphia is the only city of the first class in the State, and its government is so extensive that it has been made the subject of a volume of nearly three hundred pages. It may be described under two general heads:

1. The select council of the city consists of as many members as there are wards (40 in 1899); the term is three years, and one-third of the members are elected every year. To the common council every ward sends one member for every 2,000 taxable voters; the term is two years, and one-half of the members are elected annually.

2. The mayor is the head of the executive branch of the government, which consists of nine separate departments, viz.: Public safety, public works, taxes and finance, treasurer, city controller, law, education, charities and corrections, and sinking fund commission. The department of public safety is subdivided into seven bureaus, viz.: Police, fire, health, markets and city property, electrical bureau, bureau of building inspectors, bureau of boiler inspectors. The department of public works is subdivided into eight bureaus, viz.: Gas, lighting, water, highways, street cleaning, surveys, ice boats, public buildings commission.

The law provides that each department shall have power to prescribe rules and regulations for its own government, regulating the conduct of its officers, clerks, and employés; the distribution and perform-

ance of its business, and the custody, use, and preservation of the books, records, papers, and property under its control. In general, every one of the nine executive departments has its own head, who is held responsible for the work of his department. The number of his assistants is prescribed by the city council; to a certain extent he appoints his own subordinates. These heads are appointed by the mayor, by and with the advice and consent of the councils.

This method of city government is sometimes called the Federal system or the Federal plan, because it has a certain resemblance to the executive branch of the National government. It originated in Philadelphia, but has since been adopted by other cities.

216. Pittsburg and Allegheny City.—These are the only cities of the second class. In general, it may be said that their governments are intermediate between the complex government of Philadelphia and the simple government of cities of the third class.

217. Boroughs.—A borough may be considered as a rudimentary city. It may become a city by the vote of the qualified electors, upon its attaining a population of 10,000 persons. A borough, like a city, has a mayor, treasurer, solicitor, and board of health, as well as a council. This council consists of six members.

218. Education.—One of the most important duties of a city or borough government is to provide for the education of the youth, but this department is noticed at length in the chapter devoted to the School System of the State.

Questions for Inquiry and Discussion

1. What is the advantage of dividing the cities of the State into classes?

2. Why not allow the city to make its own charter, as the State makes its own constitution?

3. In what ways or forms does a State or city borrow money?

4. What is a sinking fund?

5. Why should the mayor of a city possess the veto power?

6. Why should the city treasurer's accounts be verified once a month?

7. Why are special city courts necessary or desirable?

CHAPTER XVII

THE GENERAL ASSEMBLY

219. Vesting the Legislative Power.—The legislative power of the Commonwealth of Pennsylvania is vested by the constitution in a General Assembly, which consists of a senate and house of representatives. The number of members of the senate is fifty, of the house of representatives two hundred and four. Senators and representatives are elected at the regular election of State officers on the Tuesday next after the first Monday in November. The senatorial term is four years. One-half of the senators are chosen every even year, by which arrangement one-half of the body has had at all times at least two years' experience. Representatives are elected every even year for a term of two years. Their terms of office begin on the first of January next after their election.

220. Qualifications of Senators and Representatives.—Senators must be at least twenty-five years, and representatives at least twenty-one years of age. They must have been citizens of Pennsylvania during the four years immediately preceding their election, and residents of the district which they represent one year, unless they have been absent on the public business of the United States or of the Commonwealth of Pennsylvania. During their terms of office they must continue to reside within their districts. No person holding an office under the State or National govern-

ment is eligible to membership in either branch of the General Assembly. All persons once convicted of embezzlement of public moneys, bribery, perjury, or other infamous crime are also incapable of such membership. The General Assembly is also popularly called the legislature and the State legislature.

221. Apportionment of Senators and Representatives.—The constitution prescribes that the State, immediately after each decennial census of the United States, shall be divided into senatorial and representative districts, and defines the method of division. This is called the apportionment of members.

First, the Senate. For representation in the Senate, the State is divided into fifty districts composed of compact and contiguous territory, and each district elects one senator. The number of inhabitants entitled to a senator—or the ratio of senatorial representation—is determined by dividing the population of the State by fifty, the number of districts. Each county constitutes as many districts as its population contains ratios, with an additional district for a surplus exceeding three-fifths of a ratio. Philadelphia county is divided into eight districts, Allegheny county into four. Some districts contain two or three counties; and no county can constitute a separate district unless its population is equal to three-fourths of a ratio, except that in cases where the adjacent counties are entitled to constitute separate districts alone a county may have a senator if its population exceeds one-half a ratio.

Secondly, the House of Representatives. The constitution provides that members of the house of representatives shall be apportioned according to a ratio

obtained by dividing the population of the State returned at the preceding National decennial census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the remainder exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is situated. Every city entitled to more than four representatives, and every county having over 100,000 inhabitants, shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives. The different districts of the City of Philadelphia have altogether thirty-nine members in the house of representatives.

222. Sessions.—The General Assembly holds its regular sessions once in two years, beginning on the first Tuesday of January of every odd year. Under extraordinary circumstances it may be convened in special session by the Governor, and it may also hold adjourned sessions. There is no prescribed time for which the General Assembly shall sit, but the regular sessions last about five months. When the two houses cannot agree upon the time of adjournment, the Governor may adjourn them to such time as he shall think proper, not exceeding four months. To constitute a quorum to do business in either house, a

majority of all the members elected is required, but a smaller number may adjourn from day to day and compel the attendance of absent members. Each house has its own hall or chamber in the Capitol at Harrisburg.

223. Privileges of Members. — The constitution provides that the members of the General Assembly shall, in all cases except treason, felony, violation of their oath of office, and breach of the peace, be exempt from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same. It provides further, that for any speech or debate in either house they shall not be questioned or be held responsible in any other place.

It might seem unnecessary to lay down such rules as these; but experience shows that if it were not done persons hostile to the government, or to the individual members of the Assembly, might impede legislation, or even prevent it altogether, by interfering with the personal liberty of legislators. It was once a favorite device of the kings of England for interfering with Parliament to deprive the members of their liberty by causing their arrest and imprisonment.

224. Compensation of Members. — The constitution provides that the senators and representatives shall receive such salary and mileage, for regular and special sessions, as may be fixed by law, and no other compensation whatever for service on committees or otherwise. The law fixes the compensation of members for the regular biennial session at $1,500, and mileage to and from their homes at the rate of twenty

cents per mile, to be computed by the ordinary mail route between their homes and the Capital of the State, and $500, with mileage as before, for each special or extraordinary session.

225. The Organization of the Senate.—The two houses of the General Assembly proceed, immediately after the ceremonies with which the session opens, to organize themselves for business, in their respective halls or chambers. The members take the oath of office that the constitution prescribes. The Lieutenant-governor of the commonwealth, by virtue of his office, is the president of the senate, but the senate elects a president *pro tem.*, who is the only officer that is a member of the body. There are a chief clerk, journal clerk, reading clerk, message clerk, executive clerk, and four transcribing clerks. These clerks perform the duties involved in keeping the journal, reading bills, making copies of bills in the different forms which they assume, and having charge of them in the numerous stages that a bill passes through in a legislative body. There are, besides, the sergeant-at-arms and two assistants, who keep order in the senate chamber, the chaplain, and the librarian. The employés include door-keepers, messengers, pasters and folders, pages, etc.

226. The Organization of the House of Representatives. — The organization of the house of representatives is similar to that of the senate. The presiding officer is called the Speaker, and is elected by the members from their own number. There is a series of clerks, a sergeant-at-arms and assistants, a chaplain, a postmaster, and minor employés.

One very important part of the work of conducting a legislative body is the keeping of the journal. The journals of the two houses of legislation in Pennsylvania are published and copies can be obtained of the members.

227. Procedure in Legislation.—The constitution lays down the following regulations as to the method of procedure in enacting laws: (1) No law shall be passed except by bill; (2) No bill shall be considered unless referred to a committee, returned therefrom, and printed for the use of the members; (3) Every bill shall be read at length on three different days in each house; (4) No bill shall become a law unless, on its final passage, the vote be taken by yeas and nays, the names of the persons voting for and against the same be entered on the journal, and a majority of the persons elected to each house be recorded thereon as voting in its favor; (5) All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendment as to other bills.

Further details of procedure are determined by the rules of order which each house adopts for itself.

228. The Committee System.—The enactment of laws is, at best, a slow and laborious process, but it would be still slower and more laborious if it were not expedited by means of committees of the houses, which are deemed so important that the constitution itself expressly prescribes them. The committee system places every bill in the hands of a limited number of persons who are supposed to have special

knowledge of the subject with which it deals, and it is made their duty, as a committee, to investigate the matter and to report to the house. There are standing committees, or committees that continue throughout the whole period for which an assembly is elected, and special committees created for special purposes.

The following list of standing committees of the two houses will suggest the wide range of subjects upon which the General Assembly may legislate:

STANDING COMMITTEES OF THE HOUSE

A Committee of Constitutional Reform.
A Committee of Ways and Means.
A Committee on Appropriations.
A Committee on the Judiciary System (General).
A Committee on the Judiciary System (Local).
A Committee on Municipal Corporations.
A Committee on Mining.
A Committee on Geological Survey.
A Committee on Labor and Industry.
A Committee on Education.
A Committee on Centennial Affairs.
A Committee on Insurance.
A Committee on Manufacturing.
A Committee on Accounts and Expenditures.
A Committee on Vice and Immorality.
A Committee on Military.
A Committee on Elections.
A Committee on Banks.
A Committee on Corporations.
A Committee on Counties and Townships.
A Committee to Compare Bills.
A Committee on Library.
A Committee on Agriculture.
A Committee on Railroads.
A Committee on City Passenger Railways.
A Committee on Iron and Coal Companies.
A Committee on Printing.
A Committee on Public Buildings.
A Committee on Federal Relations.
A Committee on Retrenchment and Reform.
A Committee on Bureau of Statistics.
A Committee on Public Health and Sanitation.
A Committee on Pensions and Gratuities.
A Committee on Congressional Apportionment.
A Committee on Judicial Apportionment.
A Committee on Legislative Apportionment.

STANDING COMMITTEES OF THE SENATE

A Committee of Finance.
A Committee on Appropriations.
A Committee on the Judiciary (General).
A Committee on the Judiciary (Special).
A Committee on the Judiciary (Local).
A Committee on Accounts.
A Committee on Municipal Affairs.
A Committee on Pensions and Gratuities.
A Committee on Corporations.
A Committee on Library.
A Committee on Banks.
A Committee on Railroads.
A Committee on Canals and Inland Navigation.
A Committee on Retrenchment and Reform.
A Committee on Education.
A Committee on Mines and Mining.
A Committee on Agriculture and Domestic Manufactures.
A Committee on Public Buildings.
A Committee on Military Affairs.
A Committee on Constitutional Reform.
A Committee to Compare Bills.
A Committee on Vice and Immorality.
A Committee on Public Printing.
A Committee on New Counties and County Seats.
A Committee on Federal Relations.
A Committee on Congressional Apportionment.
A Committee on Legislative Apportionment.
A Committee on Judicial Apportionment.
A Committee on Insurance.
A Committee on Health and Sanitation.
A Committee on Centennial Affairs.
A Committee on Elections.

229. The Governor's Part in Legislation.—After a bill has passed both houses of the General Assembly by a majority vote of all the members, as provided, and has been signed by the presiding officer of each house, it is sent by the clerk of the house in which it originated to the Governor. If he approves the bill he signs it, but if he does not approve it he returns it to the house in which it originated, with a statement of his objections. This house proceeds to reconsider the bill, and if it receives a two-thirds

vote it is sent to the other house for its reconsideration. If it passes this house by a two-thirds vote it becomes a law, notwithstanding the Governor's objections. If the Governor fails to return a bill within ten days after receiving it, Sundays excepted, it becomes a law, the same as if he had signed it, unless the General Assembly shall adjourn within that time. In this last case it also becomes a law, unless the Governor files the bill, together with a statement of his objections, in the office of the secretary of the Commonwealth and gives notice of such act by public proclamation within thirty days after such adjournment.

230. Special Legislation.—The details of government in different communities show much diversity. Notable examples of this are seen in the compensation paid to county officers in the different counties, which is so unequal that it is impossible to formulate rules relating to it. One cause of such diversity and irregularity is found in special legisiation, or the enactment of laws that apply to single cases. There are serious objections to this practice, because it is so liable to be abused. The constitution places a restriction upon the practice, but the laws of general application which have been passed under its authority do not of themselves repeal the special laws of an earlier date. The constitution, which went into operation in 1873, could do no more than to provide for the future.

The restriction referred to is found in the rule that no local or special bill shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be

effected may be situated, which notice shall be at least thirty days prior to the introduction into the General Assembly of such bill, and in a manner to be provided by law. The General Assembly has further enacted that the notice to apply for any local or special bill shall state the title and objects of the bill, and be published by not less than four insertions in at least two daily or weekly newspapers once a week for four consecutive weeks, printed in the counties that the matter to be effected concerns; the first insertion to be not more than three months, nor less than thirty days, prior to the time when the bill is introduced into the General Assembly. This would seem to be a sufficient safeguard against the enactment of special laws, which should always be approved by a majority of the community to be affected.

Questions for Inquiry and Investigation

1. Why should a legislature consist of two houses?

2. Has this always been the case in Pennsylvania?

3. Why are senators elected for a longer time than representatives? and why are they required to be of greater age?

4. What are treason, felony, and breach of the peace? and why should they be excepted from the constitutional rule given in Section 222?

6. The legislatures of some States sit annually: which is better, the annual or the biennial plan?

7. What are the reasons for the several constitutional rules quoted in Section 226?

8. Why should the Governor be permitted to veto bills?

9. Are the governors of all the States so permitted? How is it with the President of the United States?

10. Why should the houses be permitted to pass bills over the Governor's veto?

NOTE.—It is almost indispensable to have members of the class compile the history of some law by following the references to it through the journals of the two houses.

CHAPTER XVIII

THE EXECUTIVE DEPARTMENT

231. Executive Officers.—The constitution says the executive department of the State Government shall consist of a governor, lieutenant-governor, secretary of the Commonwealth, attorney-general, auditor-general, state treasurer, secretary of internal affairs, and superintendent of public instruction. In 1895 the General Assembly added to this list a secretary of agriculture. Besides the branches of which these officers are the heads, there are also numerous boards and commissions charged with administrative duties.

232. The Governor. — The supreme executive power is vested by the constitution in the Governor, who is chosen by the people at the general election once in four years. He is sometimes called also the Chief Magistrate of the Commonwealth. He must be a citizen of the United States and at least thirty years old, and must have been an inhabitant of Pennsylvania for seven years preceding his election, unless he shall have been absent on the public business of the State or the Nation. He is not eligible to the office for two consecutive terms. The Governor has his official residence at the Governor's Mansion, and his office in the Executive Building, at Harrisburg.

233. Governor's Powers. — In general, it is the duty of the Governor to see that the laws are faith-

fully executed. To enable him to do this, he is clothed with ample powers by the Constitution. For example, that instrument says he shall nominate, and by and with the advice and consent of two-thirds of all the members of the senate, appoint a secretary of the Commonwealth and an attorney-general during his pleasure, a superintendent of public instruction for four years, and such other officers of the Commonwealth as he is or may be authorized by the constitution or by law to appoint. He issues to State, county, and judicial officers the commissions which the law requires before they can enter upon their official duties. He fills temporarily vacancies that arise in offices before the expiration of the terms of their incumbents, and can remove officers for just cause. He is commander-in-chief of the military and naval forces of the Commonwealth and of the militia except when it is called into the service of the Nation. He also makes numerous appointments in this branch of the State service. He has power to remit fines and forfeitures, and to grant reprieves, commutations of sentence, and pardons. He can exercise the pardoning power, however, only upon the recommendation of the board of pardons. He has also power to call upon the heads of the executive branches of the State government for information as he may think it is needed.

234. Relations of the Governor to the General Assembly.—The Governor also has important relations to the legislative department of the government. He gives information to the General Assembly by written messages, summons it to meet in special session

on extraordinary occasions, and has power to adjourn it for a limited time when the two houses cannot agree upon a time of adjournment. Again, he must approve or disapprove all bills that pass the two houses, as has been explained in the chapter on the General Assembly.

235. Lieutenant-Governor.— The qualifications of the lieutenant-governor are the same as those of the Governor. He is elected at the same time and for the same term. If the Governor dies, resigns, or for any reason becomes unable to discharge the duties of his office, the lieutenant-governor succeeds to that office. He is *ex officio* the presiding officer of the Senate, but has no vote except in cases of a tie.

236. Secretary of the Commonwealth.—The secretary of the Commonwealth is appointed by the Governor, by whose pleasure his term of office is determined. His official relation to that officer is a very intimate one. He keeps a record of his official acts and furnishes information concerning the same to other officers and to the General Assembly. He receives the annual reports of certain State, county, and city officers and transmits them to the General Assembly. He is the custodian of the copies of the laws, resolutions, etc., passed by the General Assembly, and has charge of their publication and distribution. He also has charge of the official bonds of most of such State, county, and city officers as are required to give bonds. Such corporations as exist for pecuniary profit receive the papers necessary to their legal establishment through the secretary of the Common-

wealth. Records of papers of incorporation are kept in his office.

237. Auditor-General and State Treasurer.— These two officers may be considered together, because of the peculiar supplementary relation that exists between their offices. The treasurer receives, gives receipts for, and has charge of all moneys paid to or belonging to the State, and pays out the same upon the presentation of warrants drawn as the laws direct. Every account between the State and those owing it money, such as tax-collectors, must be examined and approved by the auditor before settlement, and then the account, as approved by him, must go to the treasurer. The duties involved in settling State accounts make it necessary that the auditor and treasurer should have extensive powers to examine accounts and to summon witnesses and put them under oath, if necessary. Claims due to the State that the auditor and treasurer are unable to collect are referred to the attorney-general to be prosecuted. All warrants upon the State treasury are drawn by the auditor, except such as are drawn by the Governor, and those drawn by the Governor the auditor must countersign. All receipts that the treasurer issues for money paid into the treasury must be countersigned and registered by the auditor. The books and papers in the office of either one of the two officers must at all reasonable times be open to the inspection of the other one. The treasurer furnishes to the auditor every month a detailed statement of the condition of the treasury. The auditor also makes an annual examination of the treasury, including the treasurer's

accounts, and all banks, corporations, etc., in which the public funds are deposited.

The State treasurer is chosen by the people at the general election every two years, and is not eligible to serve two consecutive terms. He gives a bond in the sum of $500,000. The auditor-general is elected at the general election for a term of three years, and is not eligible to serve two consecutive terms. In addition to his duties as an accountant of the State treasury, he performs an important class of duties relative to the collection of taxes, which are noted in the chapter on Taxation.

238. The Attorney-General.—The attorney-general is the law-officer of the executive branch of the State government. The attorney-general advises the Governor and other State officers on questions of law, and can proceed, through the courts, to force certain officers to perform their official duties. Many of his duties relate to the finances of the State, and he prosecutes claims due to the Commonwealth. All debts known by the auditor-general and State treasurer to be due to the State which remain unpaid ten days after the time fixed by law for appeals has expired, are handed over by those officers to the attorney-general for collection. He is empowered to proceed by law against any corporation that refuses to submit its affairs to the officers having authority from the State to examine them; also against any corporation that violates any law that is binding upon it. He is also specially authorized to proceed against agents and attorneys of the Commonwealth who have failed to pay over any moneys collected by them for the State.

He settles quarterly with the State treasurer for moneys received and adjusts his accounts annually with the auditor-general. He reports annually to both branches of the legislature. He holds office at the pleasure of the Governor, by whom he is appointed.

239. Superintendent of Public Instruction. — This officer is the head of the public school system of the State. His duties and powers are discussed in the chapter on that subject.

240. Secretary of Internal Affairs.—This officer is chosen by the people at the general election for a term of four years. The constitution says his department shall embrace a bureau of industrial statistics, and that he shall discharge such duties relative to corporations, charitable institutions, and the agricultural, manufacturing, mining, mineral, timber, and other material or business interests of the State as may be prescribed by law. At the present time, this department consists of the following divisions: Land office, vital statistics, State weather service, assessments and taxes, industrial statistics, and railways. In general, the duties intrusted to these divisions are sufficiently defined by their names, but the bureau of statistics merits further notice. It is by means of this bureau that the secretary collects facts relating to the condition of the laboring classes, which facts, accompanied by his own views and recommendations, he also publishes for the betterment of the condition of these classes. He also keeps watch of the business corporations of the State, to see that they confine themselves within their corporate limits.

241. Secretary of Agriculture.—The most recently established of the executive departments is that of agriculture Its creation was due to the magnitude of the interests before entrusted to the State board of agriculture. The secretary is appointed by the Governor, by and with the advice and consent of the senate, for a term of four years. The great object of the office which he fills is the promotion of agriculture, horticulture, and forestry. His principal duties are to gather and publish information concerning the cultivation of grains, fruits, and grasses, wool growing, and stock raising; also methods and rates of transportation and variations in the demand for farm products. In gathering this information he may make use of the facilities afforded by the State agricultural experiment station, the State board of agriculture, the State geological survey, and the various private agricultural organizations. He publishes an annual report and bulletins from time to time. He also makes rules and regulations for carrying out the laws pertaining to the protection of forests, to the prevention of the adulteration of food, and to diseases among domestic animals. There is in the department also a deputy secretary, who is director of farmers' institutes.

Salaries of State Officers

Governor	$10,000	Secretary of Internal Affairs	$4,000
Lieutenant-Governor	5,000	State Treasurer	5,000
Attorney-General	3,500	Adjutant-General	2,500
Secretary of the Commonwealth	4,000	Superintendent of Public Instruction	4,000
Auditor-General	4,000	Secretary of Agriculture	$3,500

242. Executive Boards.—The various executive officers of the State are members *ex officiis* of numerous boards and commissions that are charged with important duties, as follows:

GOVERNOR

State Board of Agriculture.
State Library Board.
Commissioners of Public Grounds and Buildings.
Commission of Soldiers' Orphan Schools.
State Live Stock Sanitary Board.
Commissioners of the Geological Survey.
College and University Council.

LIEUTENANT-GOVERNOR

Board of Pardons.
Medical Council of Pennsylvania.

SECRETARY OF INTERNAL AFFAIRS

State Board of Agriculture.
Board of Pardons.
Board of Property.
Medical Council of Pennsylvania.

SUPERINTENDENT OF PUBLIC INSTRUCTION

State Board of Agriculture.
Medical Council of Pennsylvania.
College and University Council.

ATTORNEY-GENERAL

Trustees of the State Library.
Board of Pardons.
Board of Property.
Medical Council of Pennsylvania.
College and University Council.

ADJUTANT-GENERAL

State Military Board.

SECRETARY OF THE COMMONWEALTH

Trustees of State Library.
Board of Pardons.
Board of Property.
Commissioners of the Sinking Fund.
Board of Revenue Commissioners

TREASURER

Commissioners of Public Grounds and Buildings.	Commissioners of the Sinking Fund.
State Military Board.	Board of Revenue Commissioners

AUDITOR-GENERAL

State Board of Agriculture.	State Military Board.
Commissioners of Public Grounds and Buildings.	Commissioners of Sinking Fund.
	Board of Revenue Commissioners

GOVERNORS OF THE STATE, INCLUDING THE SO-CALLED PRESIDENTS

Thomas Wharton	1777-78	Francis R. Shunk	1845-48
Joseph Reed	1778-81	William F. Johnston	1848-52
William Moore	1781-82	William Bigler	1852-55
John Dickinson	1782-85	James Pollock	1855-58
Benjamin Franklin	1785-88	W. F. Packer	1858-61
Thomas Mifflin	1788-99	Andrew G. Curtin	1861-67
Thomas McKean	1799-1808	John W. Geary	1867-73
Simon Snyder	1808-17	John F. Hartranft	1873-79
William Findlay	1817-20	Henry M. Hoyt	1879-83
Joseph Hiester	1820-23	Robert E. Pattison	1883-87
John A. Shulze	1823-29	James A. Beaver	1887-91
George Wolfe	1829-35	Robert E Pattison	1891-95
Joseph Ritner	1835-39	Daniel H. Hastings	1895-99
David R. Porter	1839-45	William A. Stone	1899-

QUESTIONS FOR INQUIRY AND DISCUSSION

1. Why not vest the executive power as well as the legislative in the General Assembly?

2. Why not vest it in a board or council, as was done under the constitution of 1776?

3. Why should not the people elect the secretary of the Commonwealth and the attorney-general, as well as the auditor-general and the state treasurer?

4. Why require the senate to confirm the Governor's nominations to office?

5. Why should the Governor be a member of so many State boards?

6. What points of likeness are there between the lieutenant-governor of Pennsylvania and the vice-president of the United States?

7. Why should the lieutenant-governor's right to vote in the senate be limited to questions on which the senate is equally divided?

CHAPTER XIX

THE JUDICIARY

243. The Judicial Power.—The judiciary is that department of the government whose business it is to apply the laws to cases where persons make conflicting claims to rights; also to determine the guilt or innocence of persons accused of committing crime, and to pronounce sentence upon such as have been found guilty. A body of officers constituted and organized as directed by law for the performance of the functions stated above, is called a court of justice. The question at issue, after it has been brought before a court in the manner prescribed, is called a case at law or a suit at law. The constitution says the judicial power of the Commonwealth shall be vested in a supreme court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter-sessions of the peace, orphans' courts, magistrates' courts, and in such other courts as the General Assembly may from time to time establish.

This subject has been anticipated in part in the chapters on the Township, the County, and the Municipality. Magistrates' courts are the courts held by justices of the peace, aldermen, and mayors. They are the lowest in jurisdiction and the simplest in procedure of any courts in the system. Courts of common pleas, of quarter-sessions of the peace, of oyer and terminer and general jail delivery, and

orphans' courts have been noticed as sitting regularly in every county town and being carried on in part by county officers. Still a county is not necessarily a separate judicial district. It remains to present this group of courts in greater detail, as well as to consider the courts that have a higher jurisdiction than these possess.

244. Original and Appellate Jurisdiction.—The decision or judgment of any court of justice, except the highest in the system, is not necessarily final, for many cases tried in lower courts may be carried up higher for reconsideration. The grade of court or courts in which any class of cases shall originate is defined by law. Jurisdiction over cases which are to be tried for the first time is called original jurisdiction; jurisdiction over those that are brought up from a lower court for examination by a higher one, appellate jurisdiction. Some classes of cases may lawfully originate in either of two courts. This fact is expressed by saying that these courts have a concurrent jurisdiction.

245. Jurisdiction of County Courts.—Those courts which are identified with the county have a very broad original jurisdiction, embracing almost all civil and criminal cases that arise in common life under the laws of the Commonwealth. They have also an appellate jurisdiction over a large number of the petty cases that originate in the magistrates' courts.

246. Trial by Jury.—The laws of the Commonwealth, in guaranteeing rights to citizens and defining the punishment of crimes, make such rights and penalties depend upon the situation of the parties concerned,

or the facts in the case. In order to apply the laws to any suit at law it is necessary to discover what the situation or the facts of the case are. The officer who applies the law to the facts is the judge on the bench. Unjust judges have sometimes made unjust applications of the law in disregard or defiance of the facts in the case. The great guarantee of a just decision as to facts is the right of trial by jury. This institution is far older than the State of Pennsylvania, and has been a part of its judicial system from the very first. The present constitution says trial by jury shall be as heretofore, and the right thereof remain inviolate.

A jury may be defined as a board or committee whose function it is to decide what are the facts involved in any case undergoing investigation in a court. It renders its verdict, after hearing the evidence of the witnesses. In civil suits, where life and liberty are not imperiled, jury trial is of less importance as a guarantee of justice than in criminal cases and is frequently dispensed with. The constitution provides that the parties to the suit may, by agreement, dispense with trial by jury and submit the decision of the case to the court or judge having jurisdiction, and such courts shall hear and determine the same. In this clause the court means the judge or judges conducting the trial. The jury system is used in the county courts much more than in any others. In the magistrates' courts most cases are decided by the judges alone, while juries are wholly unknown in the highest courts of the State.

247. Petit and Grand Juries.—The jury whose function it is to discover and pass upon the facts in a

case at law is the petit jury. To the courts that try criminal cases there belongs also a jury called the grand jury. The function of this is to determine, by means of a preliminary hearing of evidence, whether a person who has been arraigned for crimes on suspicion shall be brought to trial, or shall be dismissed without trial. If the grand jury finds insufficient evidence to justify a trial, it dismisses the person arraigned; but if it finds sufficient evidence it presents to the proper court an indictment, which commits him for trial before a judge and petit jury, unless he shall plead guilty or the case be subsequently dropped. In Pennsylvania a grand jury is composed of twenty-four members, a petit jury of twelve.

248. Choice and Summoning of Jurors.—The jury commissioners of each county, together with the president-judge of the judicial district, or the associate judge for the county if the county is not a district by itself, meet at the county town annually at least thirty days before the first term of the court of common pleas, and select alternately from the list of qualified voters of the county such number of persons to serve as jurors in the several county courts for the year as shall have been determined upon at the preceding term of the court of common pleas. The names selected are first written on slips of paper and then locked up in the jury wheel, and the keys to the wheel placed in the custody of the sheriff. The prothonotary issues to the jury commissioners and the sheriff, after the list of cases to come before the court of common pleas at any term has been determined, an order to draw from the wheel the names of a certain

number of persons who shall serve as jurors in the court of common pleas.

When these names have been drawn, the persons are summoned by the sheriff to appear in court on the first day of the term and the panel of names drawn is returned to the prothonotary. Similarly the clerk of the court of quarter-sessions and of the court of oyer and terminer, upon the direction of the courts or of two judges thereof, issues a writ to the sheriff and jury commissioners to impanel and summon a grand jury to inquire what suspected persons should be brought to trial; also petit jurors to act in such cases as are brought to trial. The same panel for each jury is returned to the two courts.

249. Selecting Jurors for Cases.—In getting a jury to try a particular case, the clerk of the court puts into a box slips of paper bearing the names on the panel returned to him, and some disinterested person draws names until twenty are drawn who are acceptable to both parties to the suit. Then the two parties strike out by turns four names each, which reduces the number to twelve. If in any case so many of the jurors on the panel are prejudiced, or for any other reason are unacceptable, that twelve acceptable persons cannot be secured therefrom, the sheriff may summon disinterested persons from among the bystanders to fill out the number of jurors required.

250. Counsel and Witnesses.—While it is lawful for a person to plead his own cause before a court, it is useful for litigants to employ lawyers to do it for them. This is called employing counsel. The counel for the plaintiff and the counsel for the defendant

together agree upon a jury, as explained above. In the trial the counsel on either side examines the witnesses that he brings to the stand in behalf of his client, and cross-examines the witnesses brought in the interest of the other side. At the completion of the evidence each presents his client's side of the case to the jury in an address called an argument. The papers filed by the two parties containing the statement of the case *pro* and *con*, that is, the plaintiff's petition and the defendant's reply, etc., are called the pleadings. There are often two or more lawyers on either side.

In criminal cases the action brought against the suspected person rests on an indictment found by the grand jury, and the counsel for the prosecution is the district attorney, who appears in the name of the State. The accused person has every means of defense allowed him. The constitution provides that in all criminal prosecutions "the accused hath a right to be heard by himself, and his counsel demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property unless by the judgment of his peers or the law of the land."

251. Judicial Districts.—A judicial district may be defined as the area over which a judge, or a judge together with his associates, that is, a court, has juris-

diction. The constitutional provision is that whenever a county shall contain 40,000 inhabitants it shall constitute a separate judicial district and shall elect one judge, learned in the law, etc.; and the General Assembly shall provide for additional judges as the business of the said districts may require.

The present judicial districts were established by an act of the General Assembly passed in 1895; the number of judges to be elected in each district was also designated by the same act. There are 54 districts. The first district is composed of the city and county of Philadelphia, and has 12 judges in the common pleas and 4 judges in the orphans' court. The fifth district is composed of Allegheny county, and has 9 judges in the common pleas court and 2 in the orphans' court. Two districts have 3 judges of the common pleas and one judge of the orphans' court. One district has 3 judges for all courts, 8 districts have 2 judges for all courts. The remaining districts have one judge each. As hitherto stated, judges of the court of common pleas hold also the court of quarter-sessions and the court of oyer and terminer. They may also hold orphans' courts, unless the total amount of business to be transacted is too great.

252. Ministerial and Recording Officers.—The transaction of judicial business requires, in addition to judges, juries, counsel, and witnesses, officers to serve writs, execute orders, etc., and officers to keep the records. The first are called the ministerial, the second the recording officers of the court. Magistrates' courts employ the township or the city and ward constables as ministerial officers. Not being

courts of record, they need no clerks, but the magistrate holding the court keeps a docket. The county sheriff is the ministerial officer of all the county courts. The recording officers are the prothonotary and clerk of courts. These officers have been noticed in the chapters on the Township, County, and Municipality. The great importance of the records of courts is evident, when it is remembered that many cases are carried up to the higher courts for review.

253. District Judges.—The judges of the county courts are elected by the voters of the whole judicial district on the regular State and county election day. They enter upon their duties on the first Monday of January next after their election. They are commissioned by the Governor. The president-judge of a district is the one whose commission expires at the earliest date. Judges take the oath of office prescribed in the constitution for all judicial, State, and county officers. Casual vacancies are filled by appointment made by the Governor, said appointment lasting until the date of the next general election on which the newly elected judge would enter upon his duties. Judges are elected for a term of ten years unless they shall forfeit their office by misbehavior. Their salaries are fixed by law. At present the regular salary of a district judge is $4,000; in districts having but one judge and more than 90,000 inhabitants, $5,000; in Allegheny City, $6,000; in Philadelphia, $7,000. Mileage is allowed for travel made necessary by the duties of the office.

254. Terms of the Courts.—The terms of courts are fixed by the judges for their respective districts. There are in general four terms a year of the court of

common pleas, the court of quarter-sessions, and the court of oyer and terminer held at every county town. The terms of the two criminal courts are identical; they employ the same officers throughout and differ only in the nature of the cases brought before them. Their terms usually begin at the same time as the terms of the court of common pleas and they are held by the same judges. Orphans' courts are frequently held in connection with the other courts, though in the large counties their terms are arranged independently.

255. The Supreme Court.—The constitution says the Supreme Court shall consist of seven judges, who shall be elected by the qualified electors of the State at large. They shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be again eligible. The judge whose commission will first expire is the chief-justice. According to this rule, every judge would serve as chief-justice three years, for the regular elections occur at intervals of three years.

The original jurisdiction of the Supreme Court is very small; the greater part of its business is reviewing cases that are brought up from the lower courts on appeals or writs of error. It does not employ the services of jurors or listen to the oral evidence of witnesses. Its method of procedure is to examine the records of the cases that come before it as they were tried in the inferior courts, and to consider the arguments of counsel, whether made orally or submitted in the form of briefs, and then to render its decision. The court has three prothonotaries and one reporter.

The territorial jurisdiction of the Supreme Court is co-extensive with the State. It sits at Philadelphia, Harrisburg, and Pittsburg, the State being divided into three districts, eastern, middle, and western, for which these cities are seats of justice respectively. One term is held annually in each district. The judges are commissioned by the Governor and take the same oath of office as the district judges; their compensation is $8,000 a year, but the chief-justice receives $8,500. The decisions are reported and published.

256. The Superior Court.—In 1896 the General Assembly exercised the power conferred upon it by the constitution to establish courts in addition to those therein named. It created the superior court for the purpose of relieving the Supreme Court of a portion of its overgrown business. This court consists of seven judges, who are elected by the voters of the State at large for a term of ten years. There are also officers to keep the records and a reporter. It holds annual sessions at Philadelphia, Scranton, Williamsport, Harrisburg, and Pittsburg. Its jurisdiction is wholly appellate, and its procedure is similar to that of the Supreme Court. With a few exceptions, its decisions are final; in criminal cases these exceptions relate to homicide, and in civil matters to cases where the amount involved is more than $1,000. However, by permission of the Supreme Court any case may be brought before that tribunal from the superior court.

QUESTIONS FOR INQUIRY AND DISCUSSION

1. Why should not the judicial power be entrusted to the General Assembly or to the Governor?

2. Why not leave questions of law to the jury as well as questions of fact?

3. Why should the one jury be larger than the other?

4. What are the provisions of the Constitution of the United States relative to trial by jury?

5. What is a panel?

6. Why make use of a wheel in drawing a jury?

7. Why is the one jury called grand, the other petit?

CHAPTER XX

THE SCHOOL SYSTEM

257. Introductory.—Next after his home, the school is the first place where the child comes in contact with government. His teacher lays down the law of the school-room; he and his mates obey the law. However, teachers are not the governing officers of schools in the important and general matters with which the laws of the State concern themselves. In the legal sense, school government corresponds to the general civil government of the State, in having similar grades of officers and the same areas of jurisdiction. The public school system of the State is a part of the government of the State.

258. School Districts.—The school district is the unit of administration in the school system of the State. It is a body corporate and politic, with power to sue and be sued, to acquire, hold, and dispose of property for the support of schools, and to enter into such contracts as are necessary to the carrying on of the same. The law declares every township, borough, and city in the Commonwealth to be a school district; it makes provision also for the organization of special districts under special circumstances.

259. School Directors.—The officers by whom the powers of the school district are exercised are the school directors. It is their duty, in general, to

establish and keep in session a sufficient number of common schools for the education of all persons between the ages of six and twenty-one years resident within their respective districts. This involves levying school taxes, purchasing building sites, erecting and equipping school buildings, employing teachers, establishing courses of study, and purchasing textbooks and other necessary supplies.

As the amount of school business varies greatly in different districts—being least in districts having a few schools and teachers and a few score of pupils, and greatest in Philadelphia, with its 3,057 schools, 3,161 teachers, and 132,052 pupils—the size and procedure of boards of directors must vary considerably. Township districts have six directors, elected two annually for a term of three years. Borough and city districts elect a specified number of directors for each ward, as specially provided by law; the common number is two members from each ward. In general, school elections are held at the same time as the township and city elections, the third Monday of February. Directors enter upon their duties the first Monday in June. Within ten days of this date they are required to organize by choosing a president, secretary, and treasurer, the first two of whom must be members of the board. They are required to hold a regular meeting at least once every three months, and to have every school visited by at least one of their number once every month. They transmit an annual report to the county superintendent of schools. The directors of the school district also have control of the district school library.

The City of Philadelphia has a school system peculiar to itself.

260. County Superintendent.—The unit of school administration next larger than the district is the county. The county superintendent has supervision of all the district schools within his county. Borough and city districts, which have superintendents of their own, are excepted from his jurisdiction. His duties are to visit as often as practicable the several schools under his supervision, to see that the subjects specified by law are actually taught according to approved methods, and to give advice and direction to teachers. He receives from the districts of the county their annual reports, and transmits the principal part of the information that they contain, accompanied by his own observations and reflections, in a report of his own to the State superintendent of public instruction. He examines candidates for the teacher's profession and issues certificates to the deserving that are valid within the county. He also has charge of the annual county institute for teachers.

The county superintendent is appointed for a term of three years at a triennial convention of all the school directors of the county. His compensation varies from $1,000 to $2,000 annually. He must have high qualifications of physical endurance, moral character, scholarship, and professional skill. Before entering upon his office he takes an oath to perform his duties faithfully. Some duties pertaining to the schools are performed by county officers who are not a distinctive part of the school system.

261. City, Borough, and Township Superintendents.—City and borough districts, and township districts with a population of 5,000 and over, are permitted to have their own superintendents. The duties of these officers are similar to those performed by the county superintendent. They are appointed by the directors of their districts for a term of three years at a salary determined by the directors. All school superintendents in the State are commissioned by the State superintendent of public instruction and take an oath of office.

262. State Superintendent of Public Instruction.—At the head of the school system of the Commonwealth is the superintendent of public instruction, a State officer. The constitution recognizes him as one of the members of the executive department. He is appointed by the Governor for a term of four years, enters upon his office the first Monday in June, and receives a salary of $4,000. His powers and duties are numerous and important. He settles controversies between the officers of school districts, and there is no appeal from his decisions. He can remove for cause county superintendents and appoint other persons to fill out the unexpired term. He gives advice and information to the officers and patrons of the schools, and furnishes blank forms for the annual reports of the districts. He transmits an annual report to the legislature, giving an account of the condition of the schools of the State, the expenditures, the number of districts, the number of pupils, and the average cost of their education. He also includes in his report recommendations looking to the improve-

ment of the school system and thus exerts an influence in bringing about changes.

Previous to 1857 the State government did not include a separate department of public instruction, but all the duties now committed to this department were performed by the secretary of the Commonwealth.

263. Elementary Schools and Free Kindergartens.—Much the larger part of the education provided by the State is furnished in elementary schools. The law makes the provision of a sufficient number of such schools compulsory, and they must be kept in session at least six months in the year, but not more than ten months. The studies required to be taught are, orthography, reading, writing, English grammar, geography, arithmetic, history of the United States, and physiology and hygiene. Attendance is compulsory for all youth between the ages of eight and sixteen, during seven-tenths of the time that the school is in session within the district. There are, however, exceptions to this rule; for example, it does not apply to such youth as, having reached the age of thirteen years, are engaged in some useful employment. In addition to requiring the maintenance of common elementary schools, the law allows boards of directors to establish free kindergartens for children between the ages of three and six years.

264. Public High Schools. — The State has also made generous provision for establishing and carrying on public high schools. Boards of directors in districts having a population of 5,000 or more may establish such schools, which shall be free to all children

under the age of twenty-one years, residing in the district, who are found qualified on examination to enter upon the courses of study that are provided by the State superintendent of public instruction. There are three grades of high schools, according as they offer courses of instruction covering four years, three years, or only two years beyond what is prescribed for the elementary schools. The public high school of the highest grade provides, free of charge, an education more advanced than that given by the colleges a half century ago. To contrast the educational institutions of the present with those of two generations ago fills one with reverence for the progressive spirit and generosity of his State.

265. The Preparation of Teachers. — In order to have a supply of teachers who have received special training for their work, the State makes liberal provision for normal schools. The counties are grouped into thirteen normal school districts, each district having its own school, which receives annually from the State school appropriation a sum proportional to its enrollment of students. As a condition of receiving State aid, these schools must meet certain requirements in respect to equipment, control, and courses of study. The superintendent of public instruction performs important duties with reference to normal schools, particularly in the examination of graduates and the conferring of State certificates.

266. Teacher's Certificates. — No teacher can receive compensation for service rendered in the public schools without holding a certificate. Permanent certificates, valid throughout the State, are granted

to graduates of the State normal schools, and may also be granted by the superintendent of public instruction to experienced teachers who are recommended by the boards of directors and county or city superintendents where they have been employed. Other candidates for employment as teachers are examined and certificated by the county or city superintendent under whose supervision they are to be employed.

267. Teachers' Institutes.—The institute should be noticed as one of the most important agencies for inspiring teachers to do their best work. Every county superintendent is required by law to appoint a five-days' institute annually, for such place and time as seems most advantageous, and to summon all the teachers of the county to attend. The schools are dismissed while the institute is in session, and the teachers in attendance receive the same pay as while employed in teaching. Funds are appropriated for the support of the institutes from the county treasury in proportion to the attendance; these funds are used in providing lecture rooms, halls, apparatus, and employing instructors and lecturers under the direction of the county superintendent.

268. School Revenues.—The two great sources of school revenue are the annual State appropriation and the school district taxes. The constitution provides that the General Assembly shall appropriate at least $1,000,000 each year for the support of public schools. In actual practice, however, the Assembly is much more generous than this, its appropriation in 1896, for example, amounting to $5,500,000. Every district in the State that complies with the law is entitled

to a share of this appropriation. The following is the rule of distribution now in force: One-third of the money appropriated is distributed among the districts on the basis of the number of paid teachers regularly employed for the full annual term of the district; one-third on the basis of the number of children of school age between the ages of six and sixteen residing in the district, and one-third on the basis of the number of taxables, or persons subject to taxation, as returned at the last biennial assessment. In order to share in this distribution, a district must keep in session a sufficient number of schools for an annual term of not less than six nor more than ten months in which the studies specified by law are taught. School moneys are paid out of the State treasury upon the warrant of the superintendent of public instruction, after the proper reports from the county superintendents have been received at the department of public instruction.

The school district tax is levied by the district board of directors. The rate of the ordinary school tax cannot exceed thirteen mills on the dollar of assessed property. The building tax may reach the same limit. The amount of money realized from this source in the whole State is between three and four times as great as the whole State appropriation. A minor source of school revenue is the fines for certain offenses committed within the district.

269. The Pennsylvania State College.—This college, which is located at State College, Centre county, had its origin in an institution called Farmers' High School of Pennsylvania, founded in 1855. Its support comes mainly from certain provisions which

Congress has made, from time to time, for the support, in the different States, of colleges of agriculture and the mechanic arts, beginning in 1862. Its special work is the training of youth in those branches of learning that lie at the foundation of modern industrial pursuits, especially agriculture theoretical and experimental. Still instruction is provided in many other branches of study. The institution is managed by a board of nine *ex-officiis* and seventeen elective members. While the State College is not a part of the State system of public instruction, it is still proper to mention it in connection therewith.

Questions for Inquiry and Discussion

1. Why should school books be furnished pupils at public expense?

2. Why should a certain amount of attendance upon the elementary school be made compulsory?

3. Why should not directors be required to establish and maintain high schools as well as elementary schools?

4. Why should the State take part in the preparation of teachers more than in the preparation of preachers and lawyers?

5. Why not raise all the school money by local taxation?

6. Why should the State support schools at all? Why not leave them to private enterprise?

CHAPTER XXI

THE MILITIA

270. Need of a Militia.—The fact that every political community, whether township, municipality, county, or State, has its peace officers shows that all governments must be prepared to put down disorder by forcible means, if necessary. The State sometimes has to deal with riots on a large scale, with uprisings of people disloyal to the government, or with invasions of its territory, threatened or accomplished. Hence the necessity of a State military department or a militia.

271. Constitutional Provisions.—The constitution of the State makes four provisions concerning the militia: (1) That the freemen of the Commonwealth shall be armed, organized, and disciplined for its defense when and in such manner as may be directed by law; (2) That the General Assembly shall provide for maintaining the militia by appropriations from the State treasury; (3) That it may exempt from military service persons having conscientious scruples against bearing arms; (4) That the Governor shall be the commander-in-chief of the army and navy of the Commonwealth and of the militia, except when they shall be called into the actual service of the United States. In the last named case the Constitution of the United States places them under the command of the President. The General Assembly has on various

occasions exercised the right that is implied in the first of these provisions, to enact laws defining methods of organizing and disciplining the militia of the State.

272. The Enrolled Militia.—In the broadest sense the militia of the State includes every able-bodied male citizen who is a resident, not younger than twenty-one years nor older than forty-five years of age. Exceptions to this rule are persons mentally or morally defective and persons enjoying honorable exemptions, as veterans of the Civil War, State officers, judges, members of the General Assembly, etc. The militia is enrolled annually by the township and ward assessors at the same time that they make the valuation of property in their respective districts. The so-called enrolled militia ordinarily remains unorganized and inactive, but in case of war or invasion the Governor, as commander-in-chief, may order out, by draft or otherwise, as many militiamen as may be necessary, and those thus ordered out must be organized in companies, battalions, regiments, etc.

273. The Active Militia.—There is at all times a portion of the militia under organization and discipline. This is styled the National Guard of Pennsylvania. Its ranks are filled and its numbers maintained by voluntary enlistments, which are made for a period of three years. In cases of invasion, insurrection, and tumult the National Guard must be called into service before the enrolled militia is ordered out. In time of peace, the guard may not consist of more than 150 companies of infantry, 5 troops of cavalry, 5 battalions of artillery, 4 companies of engineers, and a signal corps of one company. These are distributed

throughout the State, and are organized into larger divisions, regiments, etc., as the commander-in-chief thinks desirable.

274. Appropriations. — In accordance with the constitution, the General Assembly makes appropriations for the maintenance of the militia. The law allows to every approved infantry company $500 annually; to every artillery and cavalry company, $1,000. With these funds the adjutant-general makes necessary purchases. There is an additional appropriation of $200 annually per company for armory rent; also to artillery and cavalry companies a daily allowance per horse for parades and actual service. In cities of the first class, the council is allowed to appropriate $500 additional for armory purposes.

275. Officers of the National Guard.—The general officers of the National Guard are appointed by the Governor, by and with the advice and consent of the senate. The field officers of battalions and regiments are elected by the commissioned officers of the companies constituting the respective regiments and battalions. The commissioned officers of companies are elected by the non-commissioned officers and privates of the companies.

The general officers of the National Guard, including the commander-in-chief, are the following:

Governor, Commander-in-Chief.
Adjutant-General and Assistant Adjutant-General.
Inspector-General.
Judge-Advocate-General.
Quartermaster-General and Assistant Quartermaster-General.
Commissary-General and Assistant Commissary-General.
Surgeon-General.
General Inspector of Rifle Practice.
Chief of Artillery.
Aides-de-Camp, eleven.

A major-general and a brigadier-general have each a staff of officers. There is but one major-general and only three brigadier-generals, but the law allows as many as five of the latter.

The non-commissioned staff :

Sergeant-Major.	Chief Musician.
Quartermaster-Sergeant.	Color Sergeant.
Commissary-Sergeant.	

276. The Adjutant-General.—The administrative duties that the National Guard imposes upon the State government are performed by the adjutant-general. This officer is appointed by the Governor for a term of four years, and is the head of one of the executive departments at the State Capital. His duties involve, in general, the promulgation of all orders that the commander-in-chief issues and the execution of all orders established by law relative to the perfecting of the system of discipline. More particularly, he directs the purchase and distribution of uniforms, ammunition, furniture, camp equipage, etc.; inspects annually, in person or by deputy, all the troops of the National Guard during their encampment; furnishes blank forms of rolls, reports, etc.; receives regular reports from commanding officers of brigades and divisions; and submits an annual report to both the Governor of the State and the President of the United States. The financial affairs of the military department are also in the adjutant-general's hands. He has the custody of books, accounts, and property; pays the troops and all other expenses by drawing warrants upon the treasurer of the Commonwealth; and gives an account of the expenditures of his department to the auditor-general. He is required to give bond in the sum of $20,000.

277. Annual Encampment and Inspection. — The law requires of all companies belonging to the National Guard an annual encampment not to exceed fourteen days in length. This is for military drill and discipline. The time and place are designated by the commander-in-chief. During the encampment occurs the annual inspection by the adjutant-general or inspector-general.

278. Uniforms, Tactics, Drill, Etc.—The official uniform of the National Guard is after the United States Army fatigue pattern. Companies may provide themselves at their own expense with uniforms of some other pattern; but the official uniform must be worn at time of inspection and in active service. The system of military tactics is the same as that prescribed for the United States Army. Copies of tactics, manuals of rifle practice, manuals of service, etc., are among the supplies provided by the adjutant-general. Military duty requires the regular attendance of all officers, privates, and musicians on all occasions of drill, parade, and encampment. Especial rules and regulations for the government of individual companies, and for their improvement in military science and discipline, may be adopted by the companies themselves, provided they are not inconsistent with the laws of the State and are approved by the major-general.

279. The Naval Militia.—In connection with the annual enrollment of the militia, there is a separate enrollment, under the head of naval militia, in such districts as the commander-in-chief may designate, of all sea-faring men, men engaged in navigation and the construction of crafts, and members of associations

for aquatic pursuits. The law authorizes the organization of a Naval National Guard for the defense of lakes, coasts, and harbors, to consist of naval battalions constituted by voluntary enlistment. This guard is commanded by a captain. In time of peace it may not include more than two battalions, each battalion having four divisions or companies. The commander-in-chief may alter the organization of the naval force or disband it, whenever, in his judgment, the efficiency of the State service will be increased thereby. The discipline and routine of duty for the naval force are the same as for the National Guard in all matters to which the same regulations are applicable. Where this is not the case, discipline, routine, and exercises conform to the laws and usages governing the navy of the United States.

280. Courts-Martial.—In no other department of the State is such thorough obedience to orders and such fidelity to duty enforced as in military affairs. Nowhere else is the regimen so exacting. To secure this it is necessary for military courts to be strict in their decisions and severe in their penalties. The courts that try offenses against military law, order, and discipline are called courts-martial. There are several grades of these, one for the trial of the general officers, another for the trial of the officers of the various divisions, and others for the trial of enlisted men. These courts consist of a single judge or of a board of judges, who are military officers acting in a judicial capacity. In time of peace, the jurisdiction of courts-martial extends only to military offenses, and the penalties are dishonorable discharge from

and leaving service, degradation in rank, forfeiture of pay, imprisonment, fine, and reprimand. In time of war, the jurisdiction extends to all classes of offenses, and the penalties are the same as in the ordinary courts of the United States.

Questions for Inquiry and Discussion

1. So long as the United States maintains an army, why is it necessary for a State to keep up a militia organization?
2. In what instances has the soil of Pennsylvania been invaded?
3. Why should the Governor be commander-in-chief of the militia?
4. Why should the President command the militia when it is called into the National service?
5. Why have two divisions of militia—the enrolled and the active?
6. Why will not the ordinary civil courts suffice for the trial of military cases?
7. What provisions of the Constitution of the United States relate to the State militias?
8. In what instances has the militia of Pennsylvania been called into the National service?
9. What is a general officer?

CHAPTER XXII

CORRECTIONAL AND CHARITABLE INSTITUTIONS

281. Supply of Such Institutions.—The Commonwealth of Pennsylvania is well provided with correctional and charitable institutions. There is a considerable number of State institutions for these purposes, and a much larger number that are supported and controlled, at least in part, by private religious or philanthropic enterprise. The names and the character of many of these institutions will appear in the table found at the close of this chapter.

282. State Board of Public Charities. — All incorporated correctional and charitable institutions in the State come under the supervision of the State board of public charities. This is the case with the private and public institutions alike. The board consists of ten members, who are appointed by the Governor for a term of five years, and of a general agent appointed by the board itself from outside its own membership. This agent is a very important member of the board. The board elects its own president, and meets at the State Capital at least once every three months. The office of the executive committee, however, is in Philadelphia. The board submits to the General Assembly an annual report of the condition of all the institutions subject to its oversight, together with recommendations for their improvement.

283. Work of the Board.—The board of public

charities is required to visit, through some of its members, at least once a year, every institution that receives State aid. All applications for such aid made by private institutions are inquired into by the general agent of the board. Institutions for the insane are under the special supervision of the committee on lunacy, which is composed of five members. The supervision of the board extends to the charitable and penal institutions of county, city, and township. All persons in charge of almshouses, jails, etc., also all overseers and directors of the poor, report to it annually. Much of the actual work of visiting is done by committees that the board appoints in each county to make inspection under its direction and report accordingly.

284. Extent of the Work.—Some idea of the extent and variety of the provision made for the defective and unfortunate members of society may be gathered from the fact that the visiting committee for Philadelphia county reported for the year 1897 on the condition of 66 institutions, as follows: 7 prisons and reformatories, 28 hospitals, 1 institution for the deaf and blind, 2 homes for the aged, 2 institutions for the employment and boarding of adults, and 26 institutions for children, including industrial schools, homes, orphanages, nurseries, etc.

STATE PENAL AND CORRECTIVE INSTITUTIONS

The Eastern Penitentiary, Philadelphia.
The Western Penitentiary, Allegheny City.
The Huntingdon Reformatory, Huntingdon.
Pennsylvania Reform School, Morganza, Washington county.
Curative and Charitable State Hospital for Injured Persons of the

Anthracite Coal Regions of Pennsylvania, Ashland, Fountain Springs P. O., Schuylkill county.

State Hospital for the Middle Coal Fields, Hazleton.

State Hospitals for Injured Persons of the Bituminous Coal Fields:

Number 1—Blossburg, Tioga county.

Number 2—Mercer, Mercer county.

Number 3—Connellsville, Fayette county.

Number 4—Philipsburg, Centre county.

State Hospital for the Insane, Harrisburg.

State Hospital for the Insane, Danville, Montour county.

State Hospital for the Insane, Morristown, Montgomery county.

State Hospital for the Insane, Dixmont, Allegheny county.

State Hospital for the Insane, Warren, Warren county.

State Asylum for the Chronic Insane, Wernersville, Berks county.

Pennsylvania Soldiers' and Sailors' Home, Erie, Erie county.

Western Pennsylvania Training-School for Feeble-Minded Children, Polk, Venango county.

Questions for Inquiry and Discussion

1. Why should government support charitable institutions?

2. Why not leave their support wholly to private religious and philanthropic enterprise?

3. Why should the State supervise private charitable institutions?

4. What is the difference between a correctional and a charitable institution?

5. What are the so-called defective classes?

CHAPTER XXIII

ELECTIONS

285. Popular Interest in Elections.—Political meetings and the demonstrations accompanying political campaigns arouse in all people, regardless of station, age, or sex, such interest that elections have become one of the most universally familiar features of our governments. Accurate knowledge of the essentials of election methods and processes is by no means universal; but these methods and processes should be familiar to every person who is old enough to understand them, at least in States where the officers of government are chosen by the people.

286. Times of Elections.—There are two election days, both fixed by the constitution. Township, borough, city, and school district officers are elected on the third Tuesday in February. County officers, officers elected by districts, such as judges and members of the General Assembly, State officers, and National officers are elected on the Tuesday next after the first Monday in November.

287. Election Districts.—The constitution requires that all elections shall be held by ballot. In order to accomplish this it is necessary to have a large number of polling places and to make election districts small. Townships and city wards sometimes constitute such districts; but these may be subdivided by the court of quarter-sessions. In cities of more than

100,000 inhabitants any election district must be subdivided whenever, at the next preceding election, more than 250 votes shall have been polled therein.

288. Election Officers. — The election system affords an admirable illustration of the interdependence of the different orders of political communities, township or municipality, county, and State. As was pointed out earlier, every order of political community is, territorially, a part of some other that is higher in the scale. As concerns those functions which belong to it, as a community of its own particular kind, it is independent; as concerns higher functions, it is subject to the government of that higher community in which it is included. There are, however, two great functions of government in which officers of all ranks, those of State, county, and township, are concerned together. These are elections and taxation. The State uses county and township officers and machinery to accomplish the election of State officers. On the other hand, township elections involve the activity of county officers, while county elections involve that of certain State and township officers. The only State officer whose duties, in respect to elections, are conspicuous, is the secretary of the Commonwealth. The judicial districts are represented in the system by the judges. The county officers performing election duties are the sheriff, the prothonotary, and the commissioners. The township and ward officers are the assessors and the constables. In addition to these, every election district has a special group of election officers proper. These are the judge of elections and

the overseers who constitute the election board, also clerks and watchers.

289. Qualifications for Suffrage.—The right of suffrage is the right to have a voice in the choosing of government officers, or, in familiar language, the right to vote. The Constitution of the United States leaves to the different States the power to define the conditions upon which a person shall possess this right, except that it declares that the right of citizens of the United States to vote shall not be denied or abridged, by the United States or any State, on account of race, color, or previous condition of servitude.

As might be expected, the conditions of suffrage differ in different States. The constitution of Pennsylvania establishes the following qualifications: The person must be a male citizen, at least twenty-one years of age. He must have been a citizen of the United States at least one month. He must have been a resident of the State of Pennsylvania at least one year next preceding the date of the election; but if, having once been a qualified voter or a native born citizen, he shall have removed from the State and then returned, he must have been in residence six months next preceding the election. He must have resided in the election district where he shall offer to vote at least two months next preceding. If he is twenty-two years of age or more, he must have paid a State or county tax, and this not more than two years nor less than one month before the election.

290. Registration.—Preparatory to the balloting on election day is the process of registration, which is necessary in order to ascertain who the qualified

voters of the election districts are. The duty of compiling the registry list devolves upon the township or ward assessor. Whenever the township or ward includes more than one election district, and there is but one assessor for the valuation of taxable property, the voters in each election district elect an assistant assessor to compile the registry list for the district. However, the assessor of property generally compiles the list for the election district where he resides. These officers are required to visit, as soon as possible after the first Monday in May and the first Monday in December, every dwelling in their respective districts, and to ascertain what persons possessing the qualifications for suffrage are residents thereof. Each assessor prepares a registry list, a copy of which is posted on the door of the house where the election for his district is to be held. Later he attends at this house at stated hours to hear complaints and make corrections. The lists, when completed and revised, are returned to the county commissioners. The commissioners put the lists into alphabetical order and furnish two copies of each to the election boards of the proper district for use at the polls. One of these is called the ballot check list, and is used by the inspectors of the election, who have charge of the ballots, to check off the names of voters as their ballots are furnished them. The other copy is called the voting check list, and is used to designate what persons have voted.

291. Equipment for Elections.—The duty of furnishing election districts with the necessary equipment for elections devolves, for the most part, upon the county commissioners. These officers are required

to provide the use of a suitable room, furnished with voting shelves, or compartments, where ballots may be prepared, curtains or screens to hide the voters from view, and a ballot-box; all of which are placed behind a guard-rail. There must be at least one compartment for every seventy-five voters on the registry list. The ballots are printed by order of the county commissioners, also the cards of instruction, after forms provided by the secretary of the Commonwealth. These materials are transmitted to the judges of elections for the various districts within the county on the Saturday or Monday next before the election.

292. Announcement of Elections.—The duty of giving notice of an approaching election devolves upon the county sheriff. This officer receives from the secretary of the Commonwealth, substantially in the form of the ballots to be used, official lists of the names, residences, and political parties of all candidates for office whose certificates of nomination, or nomination papers, shall have been filed with him. Also similar lists from the county commissioners. At least ten days before any election, except borough and township elections, he publishes in three newspapers of the county lists of the officers to be elected, lists of the candidates nominated, and the time and place of the election. In cities of the first, second, or third class, he also gives notice by posting up proclamations in the most conspicuous places in the election district. Township and borough elections are announced by the constable.

293. Three Stages in an Election.—Although an election is a considerably complex and detailed

process, it can always be resolved into three principal parts. These are, first, nomination of candidates for the offices to be filled; second, balloting for the candidates that are the voters' choice; third, computing and publishing the results of the balloting or the returns.

294. Process of Voting.— Police officers, constables, and deputy constables are required to be present at the polling places, but outside of the guard-rail. Each party or group of citizens that has candidates up for election is entitled to have one watcher present, but outside of the rail; he must have a certificate from the county commissioners. Within the guard-rail are the judge of the election and the two inspectors who constitute the election board of the district; also the clerks of the election. A person desiring to vote gives his name and residence to one of the election officers in charge of the ballots. This officer announces the name, whereupon the inspector or one of the clerks in charge of the ballot check list looks there for the name. If it is found the person is admitted within the guard-rail. Immediately the election officer in charge of the ballots detaches a ballot from its stub, folds it, and hands it to the voter, at which moment his name is checked on the ballot check list. The voter retires at once to one of the voting shelves, draws the curtain, and marks with a cross to show his choice of candidates. He leaves the voting shelf and hands his ballot, folded, to the election officer in charge of the ballot box. This officer numbers the ballot as ordered in the constitution and deposits it in the ballot box.

295. Returns of Elections.—Immediately after

the polls are closed at any precinct, the election officers first seal all unused ballots, and then open the ballot box and proceed to count the votes cast, taking the detailed precautions against unfairness which the law prescribes. The ballots are kept in view of the persons outside the guard-rail and the total vote is announced as soon as it is counted. The officers make out and sign the return in triplicate copies. One of these is delivered before two o'clock of the next day to the prothonotary, who presents the returns at noon of the day following to the judge or judges of the court of common pleas. The judges compute the returns received and make out their conclusions in duplicate; they also give certificates of election, under seal of the court of common pleas, to the proper persons. One of the triplicate copies is transmitted to the secretary of the Commonwealth. This officer immediately lays before the Governor the returns of the elections of all township and county officers who have to be commissioned by him. Returns of the election of the Governor are transmitted to the president of the senate for final computation and publication; returns of the election of State senators are transmitted to the senate; those of representatives to the house of representatives. Returns of the election of State treasurer and auditor-general are computed by a board consisting of the Governor, president judge of the twelfth judicial district, the president *pro tem.* of the senate, speaker of the house of representatives, four senators, and four representatives. Some of the State officers, it will be remembered, are not elected by the people, but are appointed by the Governor.

We shall now give a more particular account of the nominating machinery used in Pennsylvania.

296. Party Machinery.—It is generally the case that, under popular or free governments, there exist at least two political parties differing in their ideas about government policies. Each strives to control public affairs by electing to the public offices persons from its ranks. To accomplish this it is important to concentrate the party vote upon a single set of candidates. From this necessity for unity in action has resulted a refined system of political machinery, both for nominating candidates and for conducting political campaigns. Each party has its State convention and State committee, district conventions and district committees, county conventions and county committees, and rules of procedure for them all. The chairmen of committees become important factors in shaping political campaigns. The political machinery of the day is the creation of private ingenuity and voluntary effort and not of public law. However, the laws of the State have come to recognize its central features, such as primary elections, conventions of delegates, etc.

297. Primary Elections and Caucuses.— Perhaps the county convention and county committee may be regarded as the primary force in the system of party machinery, inasmuch as it is by their initiative that the machine begins to operate at the bottom of the governmental system. In accordance with the party rules, the voters of each party meet in the voting precincts to hold primary elections. Here they both nominate their party candidates for local offices

and designate delegates to the county conventions of their respective parties. If the district that is concerned in a nomination includes more than one voting precinct, the votes taken at the primary elections of all such precincts must be combined.

The terms "primary election" and "caucus" are sometimes used interchangeably. However, the latter term more often stands for a meeting where a clique of party members, with a common purpose, lay their plans. Caucuses are also held in connection with large political meetings and of legislative bodies.

298. County Nominations.—Two methods of nominating county officers are used in Pennsylvania. The Crawford County System, named for Crawford county, where it originated, is the one most in accordance with the principles of government by the people. It consists of holding as many primary elections as there are election districts in the county, and of determining the choice of the voters by combining the results of the votes taken in the several precincts. This is the primary election on a larger scale than when it is used for township or borough nominations. The other method of nominating county officers is by a county convention or the delegate system. The county convention is composed of delegates sent up from the townships and city wards, having been designated there at primary elections. It creates the county committee and fixes upon the county rules. It also designates delegates to the State convention.

When nominations are the result of the combined votes taken at primary elections, there is comparatively little danger of their failing to express the wishes of

the voters. On the other hand, conventions and caucuses are apt to become a field for bribery and exchange of favors on the part of aspirants for office. These corrupt practices are the cause of the unsavory associations of the expression "political machine."

299. State Nominations.—The Crawford County System is not used higher up in the governmental scale than the county. The State uses the convention system. The State convention creates the State committee, which consists of one representative from each county. In reality, each county delegation designates who the representative of its county shall be. The State convention adopts the State party platform, which consists of a series of propositions defining the political ideas and principles that the party upholds. The nominations made by the State convention include candidates for State offices, and once in four years candidates for the office of presidential elector and delegates to represent the State in the National nominating convention.

300. The Law Concerning Nominations.—While the law has not created party machines, it assumes their existence and operation. The Ballot Reform Act of 1892 runs as follows:

"Any convention of delegates or primary meeting of electors or caucus held under the rules of a political party or any board authorized to certify nominations representing a political party, which at the election next preceding polled at least two per cent of the largest entire vote for any office cast in the State, or in the electoral district, or division thereof, for which such primary meeting, caucus, convention, or board desires

to make or certify nominations, may nominate one candidate for each office which is to be filled in the State, or in the said district or division, at the next ensuing election, by causing a certificate of nomination to be drawn up and filed as hereinafter provided."

The law also allows the nomination of candidates for public offices by means of nomination papers that are drawn up and circulated by private effort. They must have a certain number of signatures, and be filed with the proper officer, in like manner with certificates of nomination. This provision would seem to be in favor of new parties, which have not yet perfected their party machinery, and of independent candidates.

301. Filing of Certificates of Nomination.—The law above quoted prescribes further that certificates of nomination must be signed by the presiding officer and the secretary or secretaries of the convention, primary meeting, or caucus in which they are drawn up. When candidates have been nominated for State offices, for the House of Representatives of the United States, district judgeships, and the General Assembly of the State, certificates properly drawn up and signed must be filed with the secretary of the Commonwealth at least thirty-five days before the election. Certificates of nomination for county, city, township, and school district offices must be filed with the county commissioner.

302. City Nominations.—In small municipalities the primary election system is ordinarily used. Large cities have political conventions and their accompaniments, in like manner with counties.

303. Nomination of District Officers.—For the

nomination of such officers as are elected by districts composed of several counties, for example National Representatives, special conventions are held which are composed of delegates from the counties that compose the district.

Questions for Inquiry and Discussion

1. Why do elections create so much popular interest?
2. Why is it wise to have general and local elections held on different days?
3. Why should a voter be a citizen of the United States?
4. Why is a residence qualification required?
5. The registration of voters is not required in all States: What arguments would you advance in its favor?
6. Do all the political parties in a State necessarily use the same party machinery?
7. Why are election returns made out in triplicate?
8. Why could not the Crawford County System be well used for State nominations?
9. What constitutes a man a citizen of the United States?
10. Give an account of the process called naturalization.
11. What does the phrase "previous condition of servitude" (Section 288) mean?
12. What is a "straight ticket"?

The following is the form of ballot used in Lawrence County at the November election, 1898. Candidates for the other offices, twelve in number, follow those for Governor :

A CROSS (X) in the Square at the Right of The Name of Each Candidate Inside the Line Enclosing the Column Indicates a Vote for Each Candidate thus Marked.

IF A (X) be Marked Within the Circle it will be Equivalent to a Mark Opposite Every Name in the Column. Those who Do Not Desire to Vote a Straight Ticket Must Not Mark a Cross Within the Circle at the Head of the Column.

FOR A STRAIGHT TICKET	FOR A STRAIGHT TICKET	FOR A STRAIGHT TICKET	FOR A STRAIGHT TICKET	FOR A STRAIGHT TICKET	FOR A STRAIGHT TICKET	FOR A STRAIGHT TICKET	The voter may insert in the column below, the name of any person whose name IS NOT PRINTED on the ballot for whom he desires to vote.
O	O	O	O	O	O	O	
Mark Within this Circle.	Mark Within this Circle.	Mark Within this Circle.	Mark Within this Circle.	Mark Within this Circle.	Mark Within this Circle.	Mark Within this Circle.	
Republican.	Democratic.	Prohibition.	Peoples.	Socialist Labor.	Liberty.	Honest Government.	This column is for the use of voters desiring to vote for candidates other than those whose names appear printed on this ballot.
Governor, (Mark One)	Governor, (Mark One)	Governor, (Mark One)	Governor, (Mark One)	Governor, (Mark One)	Governor, (Mark One)	Governor, (Mark One)	Governor. (Insert One)
William A. Stone.	George A. Jenks.	Silas C. Swallow.	Silas C. Swallow.	J. Mahlon Barnes.	Silas C. Swallow.	Silas C. Swallow.	

CHAPTER XXIV

TAXATION

304. Taxes Defined.—Taxation shares with elections the distinction of being the most universally familiar function of the State government. In every home the taxes are talked about to the extent of making familiar to the child the fact that the government compels people to pay to it regular contributions, the amount of which depends upon the possessions of the tax-payer in question. Taxes may be defined as portions of property that the government takes away from individuals and corporations regularly in return for the benefits which it confers upon them. It would seem that the common hostility to tax-paying should disappear in proportion as tax-payers realize that they are paying for benefits received. Such hostility is inconsistent with good citizenship and patriotism. Government cannot be carried on without revenue, and without government society cannot exist.

305. Right to Tax.—The right of the various political communities to levy and collect taxes is assumed by the State constitution. However, it is not an unlimited right. The constitution itself sets limits to the amount of debt which the State and its subordinate governments may incur. Several of the laws on taxation that have been enacted fix the maximum rates that may be reached.

306. Taxing Authorities.—The very structure of

the government, its divisions into a gradation of political communities, each independent in a prescribed sphere, necessitates the vesting of the power to tax in as many orders of officers as there are orders of communities. Obviously, it would be unsatisfactory for the township to depend upon county officers for the levy of township taxes, or for the county to depend upon State officers for county taxes. The taxing authorities are six in number, and include the General Assembly of the State, county commissioners, city and borough councils, township supervisors, overseers of the poor, and school directors.

307. The Taxing Processes.—Taxing involves three processes. First, the valuation and listing of property as the basis of a just distribution among taxpayers of the burdens to be borne This is called the assessment. Secondly, determining the amount to be raised and fixing the rate of charge necessary to secure to the government the requisite amount. Thirdly, the collection of the money-charge. The second of these processes each political community, as the State, county, etc., performs for itself through the officers who have the best knowledge of its public expenses. But in assessing and collecting taxes it is economical and otherwise expedient for the higher communities to use the officers of the lower ones.

308. Officers Employed in Levying and Collecting Taxes.—The first of the three processes involved in taxation is performed by assessors, elected in the townships and city wards throughout the State. Their returns are the basis of State, county, and school district taxes, as well as those of the community whose

officers they are. It is obvious that the total collection of returns will present many inequalities of valuation which should be removed. The officers who deal with these varying elements are an important feature of the taxing system. They are the State board of revenue commissioners, county boards of revision, and city boards of revision, sometimes called boards of assessors. The officers who perform the second of the processes involved in taxation, that is, do the taxing in the narrowest sense of the term, have been enumerated under the head of Taxing Authorities. The third process, that of collecting the money, is done by the regularly elected tax-collectors of the townships, by the tax-receivers of the counties, and by county treasurers.

309. State Taxes.—The State government of Pennsylvania derives a great part of its revenues from taxes on business corporations. The constitution says the power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party. The General Assembly has enacted laws requiring corporations to submit to the auditor-general of the State, in November of each year, sworn statements of their capital stock, number of shares, par value of shares, dividends declared, gross earnings, net earnings, surplus, etc. The laws further prescribe the rates of levy upon these bases. Such taxes are paid directly into the State treasury by the corporation.

There is also a large group of taxes for State purposes that are collected and paid into the State treasury by county officers. The State takes for itself five

per cent of all inherited property, exempting cases of intimate relationship. This is called the collateral inheritance tax. The register of wills is the collector thereof, giving a special bond for the faithful performance of this duty. He makes regular returns to the State treasury. One class of taxes in this group takes the form of fees on writs issuing from the district courts, deeds and mortgages, wills probated, and letters testamentary. These are paid into the treasury of the Commonwealth by the prothonotaries, recorders of deeds, and registers of wills, respectively, who give bonds faithfully to perform this duty. Finally, there is a State tax on certain kinds of personal property, including business investments and some articles of luxury. In these cases the returns of assessors are the basis of the levy. The rate of such taxes is fixed in the laws relating to taxation.

The work of equalization or revision is done by the State board of revenue commissioners. This board consists of the auditor-general, the State treasurer, and the secretary of the Commonwealth. It meets at Harrisburg at least once in three years. An aggregate of the returns of the assessors is secured through the boards of revision of counties and cities. It is the duty of the State board of revenue commissioners to inquire into the value of the property listed in the counties and cities and to equalize assessments as far as possible, so as to have the burden of taxation proportionally heavy throughout the State.[1]

[1] "Pennsylvania is the only State in the Union which has seriously grappled with the problem of reaching the abilities of those that receive a revenue from other elements besides real estate. Her reve-

310. City Taxes.—Inasmuch as a city is a small state in itself, it often has, for certain taxing purposes, a system of its own. The taxing processes differ somewhat in cities of different classes, though they bear a general resemblance to one another, as well as to the methods of the counties and that of the State. City wards elect their own assessors. In Philadelphia there are two to a ward, and, in addition, special assessors of real estate appointed by the board of revision. The annual levy for cities is made by the select and common councils. Estimates of the amounts requisite are furnished in Philadelphia by the city controller; in cities of the second class, by the finance committee of the councils. Philadelphia has a board of revision consisting of three members, who are appointed by the court of common pleas. Cities of the second class have a board of three members, elected by the city councils for a term of three years. Cities of the third class have a board of three members, elected for a term of three years by the qualified voters of the city. Philadelphia has a receiver of taxes, elected for three years. He pays over to the city treasurer the moneys received and reports regularly to the city controller. Cities of the second class have a tax-collector, who is chosen by the city councils in joint session. He makes duplicate returns to the city treasurer and city controller, and every month he pays over to the treasurer the taxes collected. However, in Pittsburg the city treasurer himself collects

nue laws of the last fifteen years have put her easily into the front rank of the American commonwealths."—*Essays in Taxation, Seligman.*

the taxes. In cities of the third class the tax-collector is appointed by the city treasurer.

In boroughs taxes are levied by the council, and the duplicates are placed in the hands of the treasurer, who gives notice one month beforehand of the time when taxes will be due. He attends at the proper place during the time prescribed by law for collection.

The forms of property upon which taxes are levied for city use are varied, and the special purposes for which levies can be made are numerous.

311. County Taxes.—The law authorizes taxes for county purposes to be levied upon real estate, that is, lands and buildings, upon various kinds of personal property, as business investments, domestic animals, furniture, etc., and upon occupations and polls. Annually at their first meeting after the general election, the county commissioners make an estimate of the probable expenses of the county during the ensuing year. They issue a precept to the assessors of the various townships and wards in the county for the assessment of the taxable property, within their respective districts. The general assessment of real estate is made only once in three years. In the intervals, the assessors take an account of property, occupations, and of persons liable to pay a poll tax, and revise the latest assessment of real estate by entering the destruction of buildings, the erection of new buildings, and transfers of property. On the basis of these returns the county commissioners apportion among the several townships, wards, and districts their proportional shares of the amount to be raised for county use. However, the rate of taxation must

not exceed in any one year one cent on each dollar of valuation. Copies of the apportionment are sent to the assessors. These officers furnish to each taxable inhabitant of their respective districts a notice of the amount of tax for which he stands rated, of the rate of tax, and of the time and place appointed to hear appeals. It is also part of the assessor's duty to hear appeals and report to the county commissioners.

The board of revision for the county is composed of the commissioners themselves. They must qualify for their duties in this capacity by taking a special oath. They examine and enquire whether the returns have been made in conformity with the laws, and whether property has been valued at a price not less than it would bring at a public sale. They receive communications from taxable inhabitants concerning assessments that have been made too high or too low, and proceed to revise and equalize valuations.

The law provides for the collection of county taxes by the township and borough tax-collectors. It directs that the commissioners put into the hands of these officers, at the beginning of August, duplicates for the ordinary county taxes, poor taxes, and such State taxes as are not otherwise provided for. These officers, on receiving the duplicates, post notices designating the time and place set for payment. All persons who pay within sixty days are entitled to a reduction of five per cent of the amount charged. All who fail to make payment within six months are charged five per cent additional. The tax collectors make monthly returns of the county taxes received to the county commissioners, and pay over monthly the

amounts received to the county treasurer. However, the law prescribing this method is not in force in all counties. In about half of them the county treasurers are the tax-collectors.

312. Township Taxes.—In accordance with the simplicity of township life and government, township taxes are levied on a few kinds of property and for a small number of purposes. Supervisors are authorized to lay an assessment at a rate not exceeding one cent on the dollar upon real and personal estates and upon certain occupations for the making and repairing of roads and bridges and for some other purposes. The overseers of the poor may make a levy after securing the approval of two justices of the peace, not to exceed one cent upon the dollar. The taxing officers have the assistance of the township assessors in making their levies. The rates levied must be entered in books and kept open to inspection. Tax-collectors collect for the township in about the same manner as for the county, though it is lawful for the supervisors to collect the road taxes.

313. School Taxes.—The levy of school district taxes has already been noted in the chapter on The School System. These taxes are based on the returns of the township assessors and collected by the township tax-collectors.

314. Exemption from Taxation.—The constitution says the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places for religious worship, places of burial not used or held for private or corporate profit, and institutions of a purely public charity. Acting in

accordance with this clause, the General Assembly has, by statute, exempted churches and other places of worship, with their grounds, also hospitals and places of benevolence, and all classes of institutions of learning, provided that none of these be used for private profit; also court houses, jails, etc.

Questions for Inquiry and Discussion

1. Why should not the State authorities have power to levy the county, city, and township taxes as well as the State tax?
2. What are letters testamentary?
3. Why should the powers of local authorities to tax be limited by law?
4. What portion of the total taxes of your township, borough, or city goes to the schools?
5. What are poll taxes, and why should they be collected?

Note.—Teachers will find it very advantageous to make the work in taxation as realistic and practical as possible. They should procure and bring into the class some of the blanks used in the various processes, at least those used by the assessor. Furthermore, they should set the pupils at the work of making similar blanks, filling them out, and making returns. They should, also, prepare varied arithmetical questions relating to taxation. This phase of percentage can be best taught on the ground, using original materials.

CHAPTER XXV

GENERAL VIEW OF THE GOVERNMENT OF THE STATE

We have now finished our particular examination of the various parts of the government of the Commonwealth. We have dealt with the various organs to which the political power of the State is distributed. At the end it will be useful to bring all the parts or organs with which we have been dealing—the township, county, municipality, and the central State government—together in one general view.

315. The Government of Pennsylvania a Democracy.—On examining the governments of the world, we find three distinct types, besides various derived and mixed types. These are monarchy, oligarchy, and democracy. The name monarchy is derived from the two Greek words, *monos*, meaning one, and *arche*, meaning government. It means government by one person. The ruler over a state having a monarchical government is usually designated the king or emperor. Oligarchy is government by a select class of the people governed. It is derived from the two Greek words, *oligos*, meaning a few, and *arche*. The name democracy is derived from the two words *demos*, the people, and *kratein*, to rule. A democracy is well described by Abraham Lincoln's happy phrase: "Government of the people, by the people, and for the people."

The Commonwealth of Pennsylvania belongs to the

third class of governments. It assumes that all power is inherent in the people. It is, however, not a pure democracy; for direct government by the people could be carried out only in a very small community. The government is by the representatives of the people, as has been shown in the preceding chapters; the numerous officers who discharge the functions of government are but the people's agents, being authorized to act in their various capacities, either directly or indirectly, by popular suffrage. The government is, therefore, both representative and republican. The Constitution of the United States says Congress shall guarantee to each State in the Union a republican form of government.

316. The Government Constitutional.—Constitutional governments are those in which the course of government is defined by a fundamental law called a constitution. The government of the Commonwealth of Pennsylvania is constitutional. Of the opposite character are those governments in which the highest law is the will of the ruler. A constitution may be a set of provisions and directions framed in a single document, and established at one time. It may be an accumulation of charters, statutes, judicial decisions, and precedents, in which case its establishment is the work of generations and centuries. Constitutions of the former class are styled written constitutions, those of the latter unwritten. The designation is misleading; for the various parts of a constitution that has accumulated with the progress of the state are, to a great extent, written documents. Pennsylvania, like the other States of the Union, and like the United States itself, has a written constitution.

The English constitution is an excellent example of the other class. The reasons why these two kindred nations have constitutions of opposite kinds are found in interesting historical facts. The English government, founded centuries ago, has developed into its present character by keeping pace with the political enlightenment of the people, and the different parts of the English constitution have come into being as expressions of political powers that were passing into the hands of the people. The American government, on the contrary, was given its character by a series of events that occurred in rapid succession. Its founders were able to frame and establish an enlightened constitution at one time, because they had the benefit of the long political experience of their English ancestors. The same is true of the State governments.

317. Division of Governmental Powers.—The State constitution establishes three departments or organs of government; the legislative, the executive, and judiciary. These correspond to the three great groups of functions which government involves: To enact laws, to keep them in operation, and to pass judgment in cases of their alleged violation. American governments proceed upon the principle that the rights of the people are best protected by keeping the three departments separate and independent of each other. Hence the sharp distinction of each from the others and the disqualification of officers in one department to hold office or act in another. As has been shown in the preceding chapters, the constitution vests the first great class of functions in a general assembly; the second in a governor and several heads

of executive departments, and the third in a system of courts of justice.

In the subordinate political communities which the State creates for the purpose of local government, the separation of departments is maintained in a less degree. Executive and judicial duties are performed to a larger extent by the same officers, and little legislative power is exercised. The city, as has been shown, is the only subordinate political community which has the three organs of government sharply defined.

318. Outline of the State Constitution.—

Preamble.
Article I., 26 sections. Declaration of Rights.
Article II., 18 sections. The Legislature.
Article III., 33 sections. Legislation.
Article IV., 22 sections. The Executive.
Article V., 27 sections. The Judiciary.
Article VI., 4 sections. Impeachment and Removal from Office.
Article VII., 1 section. Oath of Office.
Article VIII., 17 sections. Suffrage and Elections.
Article IX., 14 sections. Taxation and Finance.
Article X., 3 sections. Education.
Article XI., 1 section. Militia.
Article XII., 3 sections. Public Officers.
Article XIII., 1 section. New Counties.
Article XIV., 7 sections. County Officers.
Article XV., 3 sections. Cities and City Charters.
Article XVI., 13 sections. Private Corporations.
Article XVII., 12 sections. Railroads and Canals.
Article XVIII., 1 section. Future amendments
Schedule, 33 sections.

319. Bills of Rights.—In democratic governments it is assumed that certain rights belong to the people by nature, or by divine sanction, and that upon these government functionaries must not encroach. A bill

of rights is a formal statement of such rights; or it is a formal declaration that certain specified rights belong to the people and must remain inviolate. An unwritten constitution is apt to include among its various parts such a declaration, while a written constitution often has a bill of rights for a preface. Such is the case with the constitution of Pennsylvania. The following are among the rights enumerated in Article I.

"All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness. For the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform, or abolish their government in such manner as they may think proper."

"The citizens have a right in a peaceable manner to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other proper purposes by petition, address, or remonstrance."

"Trial by jury shall be as heretofore and the right thereof remain inviolate."

320. How the Constitutions of Pennsylvania Have Been Formed.—The fundamental law of Pennsylvania as a colony was a written instrument given by William Penn called the Frame of Government. In 1776, when the Colony was transforming itself into a member of the American Union, a constitution was framed by a convention sitting at Philadelphia called in accordance with the expressed wish of the Continental Congress. In 1789-90 a second constitution for the State was framed by a convention sitting at

Philadelphia. After opportunity had been given for the people to examine it, it was proclaimed in force by the convention in 1790. In 1837-38 a third constitution was framed by a convention sitting first at Harrisburg and then at Philadelphia. This was ratified by the vote of the qualified electors of the State. The present constitution of Pennsylvania was framed in 1872-73 by a convention which held two sittings at Harrisburg and one at Philadelphia. It was ratified by the qualified electors of the Commonwealth, being submitted to popular vote on December 16, 1873.

321. How the Constitution may be Amended.—The present constitution provides the following method for its own amendment. Any amendment may be introduced in either the senate or the house of representatives. It must be agreed to by a majority of the members of both houses constituting two consecutive general assemblies. Thereafter it must be submitted to the qualified electors of the State. No amendments can be submitted oftener than once in five years. The present constitution has not as yet been amended.

322. The Need of Government.—The object of government cannot be better expressed than in the language of the Preamble to the Constitution of the United States: To establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty. That government is necessary, is obvious. Men cannot attain to their highest development except in association with their fellows; nor can such association endure, except as every person refrains from

courses that he might follow if he lived apart. The regulation of the relations between men living in society necessitates some superior power placed over them, with authority to command and to punish. Such an agency is government.

323. Need of Studying the Subject.—Government by the people tends to become more and more the favorite type as the enlightenment of men increases. It requires the highest intelligence and virtue on the part of the people, else it must prove a failure and give place to monarchial or oligarchical methods. It is therefore plain, without argument, that to the youth living under the government of the United States, and of any of its component commonwealths, Civil Government is second to no study in its practical character.

Questions for Inquiry and Discussion

1. Which is better, a written or an unwritten constitution? And why?
2. What is the difference between a pure democracy and a representative government?
3. Why is a pure democracy necessarily limited to a small territory and a small number of people?
4. Why are the rights of the people more secure when the three powers of government are separated into three distinct departments?
5. Why should the constitution of the United States guarantee to each State a republican form of government?

CHAPTER XXVI

RELATIONS OF PENNSYLVANIA TO THE UNITED STATES[1]

324. Sense in Which Pennsylvania Is a State. —In the preceding chapters, the Commonwealth of Pennsylvania has been presented as a great political community, independent of other communities, governing its members in accordance with its own constitution and laws, which they have established for themselves. But certain important political powers and functions have not appeared in the enumeration. In other words, we have not met with certain political attributes that are essential to a state in the highest sense of that term. The principal of these attributes will be stated in the next paragraph; here it suffices to say that, in the highest sense, a state is an independent political body, upon which no outside authority can impose any governmental limitations or restrictions whatever. In this sense, a state and a nation are the same thing.

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[1]The subject matter of this chapter is rather difficult for school pupils. The teacher should know much more about it than he can learn from the present work; that is, he should know much more than he is called upon to teach. He should, first, be familiar with the manner in which our double system of government, National and State, originated. See *The American Government*, by the senior author, Part I., but especially Chapters II. and IV. Then he should understand how the National and State governments actually work together. See the same work, Chapters XII., XXVI., XXVII., XL., XLII., XLIV., XLV., XLIX. Also Chapter XL. of the present work.

Now, in this high sense of the word, Pennsylvania is not a state, for she is subject to limitations and restrictions that are imposed upon her by the Constitution and laws of the United States. She is simply one of the forty-five commonwealths or political communities that together make up the American Union, state, or nation. None of these communities are states in the sense in which England or France is a state; but all are part of the state called the United States. In the study of our American governments, it is important to keep these two senses of the word state clearly in mind.

325. Limitations of the Government of Pennsylvania.—The powers that the State governments, including that of Pennsylvania, are not allowed to exercise may be divided into two classes: (1) Those that the Constitution of the United States vests in the government of the United States, and (2) those that are withheld by the people from both governments alike. Of the first class are the power to enter into treaties or alliances, or to enter into any agreement or compact with a foreign power; to engage in war, unless imminent danger makes it necessary; to lay duties or imposts upon imports or exports, except what may be necessary for executing its inspection laws; to coin money or to establish a currency system; to create a postal system, and to grant patents and copyrights. The second class of limitations are imposed partly by the Constitution of the United States and partly by the constitution of Pennsylvania. Of the first group are the prohibitions to pass bills of attainder, *ex post facto* laws, or laws impairing the obliga-

tion of contracts, and to grant titles of nobility.[1] Secondly, the first article of the constitution of Pennsylvania is a declaration of the rights of the people, as we saw in the last chapter. The government is herein forbidden to interfere with religious liberty, violate the right to trial by jury, suspend the writ of habeas corpus, prevent the free exercise of the right of suffrage, quarter soldiers in private houses in time of peace, commit unreasonable trespass upon private property, etc.

326. Limitations of the National Government. —The powers and rights withheld from the National government may also be divided into two classes: First those that are reserved to the States, and secondly those that are retained by the people in their own hands. It must be borne in mind that the States are older than the National Constitution, and that the original ones had exercised, before the Constitution was adopted, some of the powers now vested in the National government. The wide scope of the powers still withheld from the National government is implied by the following amendment to the Constitution. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people." The powers withheld from both governments alike are indicated in the preceding paragraph. Some of them are specified in the body of the Constitution, others in the first ten amendments, which are a bill of rights.

[1] The pupil should here read carefully the Constitution of the United States, Art. I., Sec. 10.

327. National and State Governments Supplementary: A Federal State. — The two preceding paragraphs show that the National government and the State government supplement one another. Foreign affairs, and those domestic affairs in which National uniformity is desirable, also the control of United States lands not organized into States, belong to the sphere of the National government. On the other hand the great mass of affairs which concern the people in their ordinary life belong to the sphere of the State government.

The United States is a federal State. It is a union of forty-five States, whose governments are complete in their parts and are clothed with powers which the United States government is forbidden to exercise. On the other hand, it is itself vested with a higher class of powers. While it must not encroach upon the sphere of the States, the Civil War established its power to compel the people of refractory States to obedience.

328. Duties Which the Nation Imposes Upon the State.—The Constitution of the United States requires the different members of the Union to perform certain functions in the service of the National government. It leaves it to them to define the qualifications of suffrage for their citizens. It imposes upon them the election of all National officers who are not appointed. Members of the House of Representatives are elected by the voters of the Congressional districts into which the State is divided by its general assembly. Senators are elected by the general assembly, inasmuch as they represent the

State as a whole. The President and Vice-President are chosen by the electoral colleges, and the members of these colleges are chosen at State elections. Again, the National government makes use of the State judiciary by permitting the trial in the State courts of certain classes of cases that come under the National laws. Again, it makes use of the State militia, of which the President becomes commander-in-chief when it is called into the service of the Union.

329. Election of National Representatives.— The Constitution of the United States says members of the House of Representatives shall be apportioned among the States included within the Union according to their respective numbers of population, and Congress, once in ten years, following the decennial census, fixes the number of members of which the House shall consist and apportions the Representatives among the States. The law of the United States declares further that these members, in States having more than one, shall be elected in districts of contiguous territory to be formed by the State legislature, and, as a rule, the legislatures constitute such districts, or district the State as it is called, once in ten years. The apportionment under the census of 1890 gave Pennsylvania thirty Representatives. Of these, however, only twenty-eight are elected in districts, making twenty-eight districts, while the other two are elected on a State ticket, or at large. All persons who are entitled to vote for members of the lower house of the State General Assembly are entitled to vote for members of the National House of Representatives.

Questions for Inquiry and Discussion

1. What is meant by quartering troops in a private house?

2. Why is it more important to forbid their being so quartered in time of peace than in time of war?

3. What is the similar provision of the Constitution of the United States?

4. What are the provisions of the Constitution and laws of the United States relative to the election of members of the National Senate?

5. Why is the regulation of elections of National Representatives practically left to the State governments?

6. Could Congress withdraw such regulation if it saw fit to do so?

7. What are the advantages of a federal state or union like the United States?

8. What are the advantages of a unitary, single, or consolidated state like Great Britain or France?

9. What are the boundaries of the Congressional district in which you live?

PART III

The Government of the United States

CHAPTER XXVII

THE MAKING OF THE GOVERNMENT

The American Government. Sections 66-222 inclusive.

The United States, both as forty-five individual States and as a Nation, are an outgrowth of the Thirteen English Colonies planted on the eastern shore of North America in the years 1607–1732. The process by which this change was effected, will be briefly described in this chapter.

330. The Colonial Governments.—The Kings of England gave to the companies, proprietors, and associations that planted the Colonies certain political powers and rights. These powers and rights were formally granted in documents called charters and patents; they were duly protected by regular governments, and so became the possession of the people of the Colonies. While differing in details, these governments were alike in their larger features. There was in every Colony (1) an Assembly or popular house of legislation; (2) a Council, which served as an upper house of legislation in most of the Colonies and as an

advisory body to the governor in all of them; (3) a Governor, and (4) Courts of Law. The members of the assembly were chosen by the qualified voters. The members of the council and the governors were elected by the people in Connecticut and Rhode Island, and were appointed by the proprietors in Maryland and Pennsylvania, and by the King in the other colonies. The judges were generally appointed by the King or his representatives. Powers of local government were distributed to local officers in every Colony.

331. The Home Government. — The kings who granted the charters and patents, for themselves and their descendants, guaranteed to their subjects who should settle in the Colonies and their children all liberties, franchises, and immunities of free denizens and native subjects within the realm of England. Previous to the troubles that led to the Revolution, the Home government commonly left the Colonies practically alone as free states to govern themselves in their own way. Still they were colonies. The charters enjoined them not to infringe the laws of England, and Parliament passed an act expressly declaring that all laws, by-laws, usages, and customs which should be enforced in any of them contrary to any law made, or to be made, in England relative to said Colonies should be utterly void and of none effect. Moreover, the power to decide what was so contrary the Home government retained in its own hands.

332. Dual Government.—Thus from the very beginning the Colonies were subject to two political authorities; one their own Colonial governments, the other the Crown and Parliament of England. In other words, government was double, partly local and partly general. This fact should be particularly noted, for it is the hinge upon

which our present dual or federal system of government turns. The American, therefore, as has been said, has always had two loyalties and two patriotisms.

333. Division of Authority.—In general, the line that separated the two jurisdictions was pretty plainly marked. It had been traced originally in the charters and patents, and afterwards usage, precedent, and legislation served to render it the more distinct. The Colonial governments looked after purely Colonial matters; the Home government looked after those matters that affected the British Empire. The Colonies emphasized one side of the double system, the King and Parliament the other side. There were frequent disagreements and disputes; still the Colonists and the Mother Country managed to get on together with a good degree of harmony until Parliament, by introducing a change of policy, brought on a conflict that ended in separation.

334. Causes of Separation.—The right to impose and collect duties on imports passing the American custom houses, the Home government had from the first asserted and the Colonies conceded. But local internal taxation had always been left to the Colonial legislatures. Beginning soon after 1760, or about the close of the war with France, which had left the Mother Country burdened with a great debt, Parliament began to enforce such taxes upon the people directly. These taxes the Colonies resisted on the ground that they were imposed by a body in which they were not represented or their voice heard. Taxation without representation they declared to be tyranny. At the same time, the acts relative to American navigation were made more rigorous, and vigorous measures were taken to enforce them. In the meantime the Colonies had greatly increased in

numbers and in wealth, and the idea began to take root that such a people, inhabiting such a country, could not permanently remain dependent upon England but must become an independent power. The stamp tax was one of the objectionable taxes.

335. Independence.—The Home government dropped or changed some of its obnoxious measures, but still adhered to its chosen policy. New and more obnoxious measures were adopted, as the Massachusetts Bay Bill and the Boston Port Bill. The Congresses of 1765 and 1774 protested, but to no real purpose. Some of the Colonies, like Massachusetts, began to take measures looking to their defense against aggression; and the attempt of General Gage, commanding the British army in Boston, to counteract these measures led to the battle of Lexington, April 19, 1775, and immediately brought on the Revolutionary War. All attempts at composing the differences failing, and the theater of war continuing to widen, the American Congress, on July 4, 1776, cut the ties that bound the Thirteen Colonies to England. After eight years of war the British government acknowledged American Independence.

336. The Political Effects of Independence.—The Declaration of Independence involved two facts of the greatest importance. One was the declaration that the Colonies were free and independent States, absolved from all allegiance to the British crown. The other was the formation of the American Union. The original members of the Union as States and the Union itself were due to the same causes. The language of the Declaration is, "We, . . . the representatives of the United States of America, in general congress assembled, . . . do, in the name, and by the authority, of the good people of these Colonies, solemnly publish and declare" their independence.

The States took their separate position as a nation among the powers of the earth. Thus, before the Revolution there were Colonies united politically only by their common dependence upon England; since the Revolution there have been States united more or less closely in one federal state or union.

337. The Continental Congress.—The body that put forth the Declaration of Independence, known in history as the Continental Congress, had, in 1775, assumed control of the war in defense of American rights. It had adopted as a National army the forces that had gathered at Boston, had made Washington its commander-in-chief, and had done still other things that only governments claiming nationality can do. And so it continued to act. First the American people, and afterwards foreign governments, recognized the Congress as a National government. But it was a revolutionary government, resting upon popular consent or approval, and not upon a written constitution. A government of a more regular and permanent form was called for, and to meet this call Congress, in 1777, framed a written constitution to which was given the name, "Articles of Confederation and Perpetual Union." Still Congress had no authority to give this constitution effect, and could only send it to the States and ask them for their ratifications. Some delay ensued, and it was not until March 1, 1781, that the last ratification was secured and the Articles went into operation.

338. The Confederation.—The government that the Articles provided for was very imperfect in form. It consisted of but one branch, a legislature of a single house called Congress. Such executive powers as the Government possessed were vested in this body. The States appointed delegates in such manner as they saw fit, and had an equal voice in deciding all questions. Nine States were

necessary to carry the most important measures, and to amend the Articles required unanimity. In powers the Government was quite as defective as in form. It could not enforce its own will upon the people, but was wholly dependent upon the States. It could not impose taxes or draft men for the army, but only call upon the States for money and men; and if the States refused or neglected to furnish them, which they often did, Congress had no remedy. Much of the disaster and distress attending the war grew out of the weakness of Congress, and when peace came, the States became still more careless, while Congress became weaker than ever. Meantime the state of the country was as unsatisfactory as that of the Government. The State governments were efficient, but they looked almost exclusively to their own interests. Commercial disorder and distress prevailed throughout the country. As early therefore as 1785 the conviction was forcing itself upon many men's minds that something must be done to strengthen the Government or the Union would fall to pieces.

339. Calling of the Federal Convention.—In 1785 Commissioners representing Virginia and Maryland met at Alexandria, in the former State, to frame a compact concerning the navigation of the waters that were common to the two States. They reported to their respective Legislatures that the two States alone could do nothing, but that general action was necessary. The next year commissioners representing five States met at Annapolis to consider the trade of the country, and these commissioners concluded that nothing could be done to regulate trade separate and apart from other general interests. So they recommended that a general convention should be held at Philadelphia to consider the situation of the United States, to devise further pro-

visions to render the Articles of Confederation adequate to the needs of the Union, and to recommend action that, when approved by Congress and ratified by the State Legislatures, would effectually provide for the same. This recommendation was directed to the Legislatures of the five States, but copies of it were sent to Congress also and to the Governors of the other eight States. So in February, 1787, Congress adopted a resolution inviting the States to send delegates to such a convention to be held in Philadelphia in May following. And the Legislatures of all the States but Rhode Island did so.

340. The Constitution Framed.—On May 25, 1787, the Convention organized, with the election of Washington as President. It continued in session until September 17, when it completed its work and sent our present National Constitution, exclusive of the fifteen Amendments, to Congress. In framing this document great difficulties were encountered. Some delegates favored a government of three branches; others a government of a single branch. Some delegates wanted a legislature of two houses; some of only one house. Some delegates wished the representation in the houses to be according to the population of the States; others were determined that it should be equal, as in the Old Congress. Differences as to the powers to be exercised by Congress were equally serious. There were also controverted questions as to revenue, the control of commerce, the slave trade, and many other matters. Furthermore, the opinions that the delegates held were controlled in great degree by State considerations. The large States wanted representation to be according to population; a majority of the small ones insisted that it should be equal. The commercial States of the North said Congress should control the

subject of commerce, which the agricultural States of the South did not favor. Georgia and the Carolinas favored the continuance of the slave trade, to which most of the other States were opposed. But progressively these differences were overcome by adjustment and compromise, and, at the end, all of the delegates who remained but three signed their names to the Constitution, while all the States that were then represented voted for its adoption. What had been done, however, was to frame a new constitution and not to patch up the old one. The body that framed it is called the Federal Convention and the Convention of 1787.

341. The Constitution Ratified.—The Convention had no authority to make a new constitution, but only to recommend changes in the old one. So on the completion of its work, it sent the document that it had framed to Congress with some recommendations. One of these was that Congress should send the Constitution to the States, with a recommendation that the Legislatures should submit it to State conventions to be chosen by the people, for their ratification. Congress took such action, and the States, with the exception of Rhode Island, took the necessary steps to carry out the plan. Ultimately every State in the Union ratified the Constitution; but North Carolina and Rhode Island did not do so until the new Government had been some time in operation. Nor was this end secured in several of the other States, as Massachusetts, New York, and Virginia, without great opposition.

342. Friends and Enemies of the Constitution.—Those who favored the ratification of the Constitution have been divided into these classes: (1) Those who saw that it was the admirable system that time has proved it to be; (2) Those who thought it imperfect but still be-

lieved it to be the best attainable government under the circumstances; (3) The mercantile and commercial classes generally, who believed that it would put the industries and trade of the country on a solid basis. Those who opposed it have been thus divided: (1) Those who resisted any enlargement of the National Government, for any reason; (2) Those who feared that their importance as politicians would be diminished; (3) Those who feared that public liberty and the rights of the States would be put in danger; (4) Those who were opposed to vigorous government of any kind, State or National.[1]

343. The New Government Inaugurated.—The new Constitution was to take effect as soon as nine States had ratified it, its operation to be limited to the number ratifying. When this condition had been complied with, the Continental Congress enacted the legislation necessary to set the wheels of the new Government in motion. It fixed a day for the appointment of Presidential Electors by the States, a day for the Electors to meet and cast their votes for President and Vice-President, and a day for the meeting of the new Congress. The day fixed upon for Congress to meet was March 4, 1789; but a quorum of the House of Representatives was not secured until April 1, and of the Senate not until April 6, owing to various causes. On the second of these dates the Houses met in joint convention to witness the counting of the Electoral votes. Washington was declared elected President, John Adams Vice-President. Messengers were at once sent to the President- and Vice-President-elect summoning them to New York, which was then the seat of government. Here Washington was inaugurated April 30. The Legislative and Executive branches of the Government were now in motion.

[1] G. T. Curtis: *History of the Constitution*, Vol. II, pp. 495, 496.

CHAPTER XXVIII

AMENDMENTS MADE TO THE CONSTITUTION

The American Government. Sections 457-460; 467-474; 536-537; 604-607; 623-652.

It was anticipated that amendments to the Constitution would be found necessary, and a method was accordingly provided for making them. This method embraces the two steps that will now be described.

344. Proposing an Amendment.—This may be done in either of two ways. First, Congress may propose an amendment by a two-thirds vote of each House; secondly, Congress shall, on the application of the Legislatures of two-thirds of the States, call a convention of the States for that purpose. The first way is evidently the simpler and more direct of the two, and it is the one that has always been followed.

345. Ratifying an Amendment.—This also may be done in either one of two ways. One is to submit the amendment to the Legislatures of the States, and it becomes a part of the Constitution when it is ratified by three-fourths of them. The other way is to submit the amendment to conventions of the States, and it becomes binding when three-fourths of such conventions have given it their approval. Congress determines which of the two ways shall be adopted. The first is the simpler and more direct, and it has been followed in every instance.

346. Amendments I–X.—One of the principal objections urged against the Constitution when its ratification was pending in 1787–88, was the fact that it lacked a bill of rights. Such a bill, it may be observed, is a

statement of political principles and maxims. The States had fallen into the habit of inserting such bills in their constitutions. At its first session, Congress undertook to remedy this defect. It proposed twelve amendments, ten of which were declared duly ratified, December 15, 1791. These amendments, numbered I to X, are often spoken of as a bill of rights.

347. Amendment XI.—Article III of the Constitution made any State of the Union suable by the citizens of the other States and by citizens or subjects of foreign states. (See section 2, clause 1.) This was obnoxious to some of the States, and when such citizens began to exercise their right of suing States a movement was set on foot to change the Constitution in this respect. An amendment having this effect was duly proposed, and was declared ratified January 8, 1798.

348. Amendment XII.—According to the original Constitution, the members of the Electoral colleges cast both their ballots for President and neither one for Vice-President. The rule was that the candidate having most votes should be President, and the one having the next larger number Vice-President, provided in both cases it was a majority of all the Electors. In 1800 it happened that Thomas Jefferson and Aaron Burr had each an equal number of votes and a majority of all. The Democratic-Republican party, to which they belonged, had intended Jefferson for the first place and Burr for the second. The election went to the House of Representatives, and was attended by great excitement. Steps were taken to prevent a repetition of such a dead-lock. This was accomplished by an amendment declared ratified September 25, 1804.

349. Amendment XIII.—Slavery was the immediate exciting cause of the Civil War, 1861–65. In the course

of the war President Lincoln, acting as commander-in-chief of the army and navy of the United States, declared all the slaves held in States and parts of States that were engaged in the war against the Union free. The other Slave States, Delaware, Maryland, Kentucky, Tennessee, and Missouri, and parts of Louisiana and Virginia, his power did not reach, as they were not in rebellion. The conviction grew strong throughout the country that slavery should not survive the war. This conviction asserted itself in Amendment XIII, which took effect December 18, 1865.

350. Amendment XIV.—At the close of the Civil War Congress was called upon to deal with the important question of readjusting the States that had seceded from the Union. It was thought necessary to incorporate certain new provisions into the Constitution. So an elaborate amendment was prepared and duly ratified. It was declared in force July 28, 1868. The most far-reaching of the new provisions were those in relation to citizenship contained in the first section.

351. Amendment XV.—Down to 1870 the States had fixed the qualifications of their citizens for voting to suit themselves. At that time most of the States, and all of the Southern States, denied suffrage to the negroes. The emancipation of the slaves, together with Amendment XIV, made the negroes citizens of the United States and of the States where they resided. But the negroes had no political power, and so no direct means of defending their civil rights. To remedy this state of things a new amendment was proposed and ratified, bearing the date of March 30, 1870. It declared that the right of citizens to vote should not be abridged, either by the United States or by any State, on account of race, color, or previous condition of servitude.

CHAPTER XXIX

THE SOURCE AND NATURE OF THE GOVERNMENT

The American Government. Sections 223-262; 610-613; 615-620; 655-658; 763-772.

The source of the Government of the United States, and some of its leading features, are either stated or suggested in the first paragraph of the Constitution. This paragraph is commonly called the Preamble, but it is really an enacting clause, since it gives the instrument its whole force and validity.

352. The Preamble. — "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

The following propositions are either asserted or implied in this language :—

1. The Government proceeds from the people of the United States. They ordain and establish it. It is therefore a government of the people, by the people, and for the people.

2. The ends for which it is ordained and established are declared. It is to form a more perfect union, establish justice, etc.

3. It is a constitutional government. It rests upon a written fundamental law. On the one part it is opposed

to an absolute government, or one left to determine its own powers, like that of Russia; and on the other, it is opposed to a government having an unwritten constitution, consisting of maxims, precedents, and charters, like that of England.

4. The terms Union and United States suggest that it is a federal government. The peculiarity of a federal state is that local powers are entrusted to local authorities, while general powers are entrusted to general or national authorities. How this division of powers originated, and how it affected the country in 1775–1789, was pointed out in the last chapter. The government of a State has been described in Part II. of this work, while Part III. is devoted to the Government that is over all the States.

5. The same terms suggest that the Government is one of enumerated powers. It must be remembered that when the Constitution was framed thirteen State governments were already in existence, and that no one dreamed of destroying them or of consolidating them into one system. The purpose was rather to delegate to the new Government such powers as were thought necessary to secure the ends named in the Preamble, and to leave to the States the powers that were not delegated, unless the contrary was directly specified.

353. The Constitution in Outline.—The Constitution is divided into seven Articles, which are again divided into sections and clauses.

ARTICLE I. relates to the Legislative power.

ARTICLE II. relates to the Executive power.

ARTICLE III. relates to the Judicial power.

ARTICLE IV. relates to several subjects, as the rights and privileges of citizens of a State in other States, the surrender of fugitives from justice, the admission of

new States to the Union, the government of the National territory, and a guarantee of a republican form of government to every State.

ARTICLE V., a single clause, relates to the mode of amending the Constitution.

ARTICLE VI. relates to the National debt and other engagements contracted previous to 1789 and the supremacy of the National Constitution and laws.

ARTICLE VII., consisting of a single sentence, prescribes the manner in which the Constitution should be ratified, and the time when it should take effect.

The fifteen Amendments relate to a variety of subjects, as has been explained in Chapter XXVIII.

354. The Three Departments.—It has been seen that the Constitution distributes the powers of government among three departments, which it also ordains and establishes. This was done partly to secure greater ease and efficiency of working, and partly as a safeguard to the public liberties. Absolute governments are simple in construction, concentrating power in the hands of one person, or of a few persons; while free governments tend to division and separation of powers. In the words of Mr. Madison: "The accumulation of all powers, legislative, executive, and judiciary in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."[1]

[1] *The Federalist*, No. 47.

CHAPTER XXX

THE COMPOSITION OF CONGRESS AND THE ELECTION OF ITS MEMBERS

The American Government. Sections 263-301; 324-330.

355. Congress a Dual Body.—From an early time, the English Parliament has consisted of two chambers, the House of Commons and the House of Lords. Such a legislature is called bicameral, as opposed to one that is unicameral. The words mean consisting of two chambers and of one chamber. The great advantage of a bicameral legislature is that it secures fuller and more deliberate consideration of business. One house acts as a check or balance to the other; or, as Washington once put it, tea cools in being poured from the cup into the saucer. Countries that Englishmen have founded have commonly followed the example of the Mother Country in respect to the duality of their legislatures. Such was the case with the Thirteen Colonies, but such was not the case with the American Confederation from 1775 to 1789. In the Convention that framed the Constitution, the question arose whether the example of England and of the Colonies, or the example of the Confederation, should be followed. It was finally decided that all the legislative powers granted to the new Government should be vested in a Congress

which should consist of a Senate and a House of Representatives.

356. Composition of the Two Houses.—The House of Representatives is composed of members who are apportioned to the several States according to their respective numbers of population, and are elected for two years by the people of the States. The Senate is composed of two Senators from each State, who are chosen by the Legislatures thereof, and each Senator has one vote.

The composition of Congress at first sharply divided the Federal Convention. Some members wanted only one house. Others wanted two houses. Some members were determined that the States should be represented in the new Congress equally, as had been the case in the old one. Others were determined that representation should be according to population. These controversies were finally adjusted by making two houses, in one of which representation should be equal and in the other proportional. This arrangement explains why New York and Nevada have each two Senators, while they have respectively thirty-four members and one member in the House of Representatives. This equality of representation in the Senate is the most unchangeable part of the National Government. The Constitution expressly provides that no State shall, without its own consent, ever be deprived of its equal suffrage in the Senate, which is equivalent to saying that it shall never be done at all. No such provision is found in relation to any other subject.

357. Qualifications of Representatives and Senators.—A Representative must be twenty-five years old, and must be a citizen of the United States of at least

seven years' standing. A Senator must be thirty years of age and must be nine years a citizen. The Representative and the Senator alike must be an inhabitant of the State in which he is elected or for which he is chosen. Previous absence from the State, even if protracted, as in the case of a public minister or consul to a foreign country, or a traveler, does not unfit a man to sit in either house. Representatives are not required by law to reside in their districts, but such is the custom.

No person can be a Senator or Representative, or an Elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who having once taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an Executive or Judicial officer of any State, to support the Constitution of the United States, has afterwards engaged in insurrection or rebellion against the same, or given assistance to their enemies. But Congress may remove this disability by a two-thirds vote of each house.

358. Regulation of Elections.—The times, places, and manner of electing Senators and Representatives are left, in the first instance, to the Legislatures of the States, but they are so left subject to the following rule: "Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators." Defending this rule in 1788, Mr. Hamilton said: "Every government ought to contain in itself the means of its own preservation; while it is perfectly plain that the States, or a majority of them, by failing to make the necessary regulations, or by making improper ones, could break up or prevent the first elections of the Houses of Congress." The right to name the places where Senators

shall be chosen is denied to Congress for a very sufficient reason. If Congress possessed that power it could determine, or at least largely influence, the location of the State capitals.

359. Elections of Senators.—Previous to 1866, the Legislature of every State conducted these elections as it pleased. Sometimes the two houses met in joint convention, a majority of the whole body determining the choice. Sometimes the two houses voted separately, a majority of each house being required to elect. It is obvious that the two methods might operate very differently. If the same political party had a majority in both houses, the result would probably be the same in either case; but if the two houses were controlled by different parties, then the party having the majority of votes on a joint ballot would probably elect the Senator. If the second plan was followed, and the two houses differed in regard to a choice, there were delays, and elections were sometimes attended by serious scandals. So Congress, in 1866, passed a law providing that the Legislature next preceding the expiration of a Senator's term, in any State, shall, on the second Tuesday after its meeting and organization, proceed to elect a Senator in the following manner:—

1. Each house votes, *viva voce*, for Senator. The next day at twelve o'clock the two houses meet in joint session, and if it appears from the reading of the journals of the previous day's proceedings that the same person has received a majority of all the votes cast in each house, he is declared duly elected.

2. If no election has been made, the joint assembly proceeds to vote, *viva voce*, for Senator, and if any person receive a majority of all the votes of the joint assembly, a majority of all the members elected to both

houses being present and voting, such person is declared duly elected.

3. If a choice is not made on this day, then the two houses must meet in joint assembly each succeeding day at the same hour, and must take at least one vote, as before, until a Senator is elected or the Legislature adjourns.

4. If a vacancy exists on the meeting of the Legislature of any State, said Legislature must proceed, on the second Tuesday after its meeting and organization, to fill such vacancy in the same manner as in the previous case; and if a vacancy occur when the session is in progress, the Legislature must proceed, as before, to elect on the second Tuesday after they have received notice of the vacancy.

360. Vacancies.—When a vacancy occurs in the recess of the Legislature of a State, owing to death or other cause, the Governor makes an appointment that continues until the next meeting of the Legislature, when the vacancy is filled in the usual manner. In all cases of vacancies the appointed or newly elected Senator only fills out the term of his predecessor.

361. Division of Senators. — The Senators are equally divided, or as nearly so as may be, into three classes with respect to the expiration of their terms, as follows:

Class 1, 1791, 1797.....1893, 1899
Class 2, 1793, 1799.....1895, 1901
Class 3, 1795, 1801..... 1897, 1903

The two Senators from a State are never put in the same class; and as the terms of the first Senators from a State now admitted to the Union expire with the terms of the classes to which they are assigned, one

or both of them must serve, and both may serve, less than the full term of six years.

362. Electors of Representatives.—The persons who may vote for the most numerous branch of the State Legislature in any State, or the house of representatives, may also vote for members of the National House of Representatives. Usually, however, a State has only one rule of suffrage; that is, a person who may vote for members of the lower house of the State Legislature may vote also for all State and local officers. Practically, therefore, the rule is that State electors are National electors; or, in other words, the Constitution adopts for its purposes the whole body of the State electors, whoever they may be. In Wyoming, Colorado, and Utah women vote on the same terms and conditions as men. In Massachusetts, Connecticut, Maine, Mississippi, Louisiana, and South Carolina there is an educational qualification for the suffrage. But in most of the States males only twenty-one years of age and upwards, having certain prescribed qualifications, are permitted to vote.

363. Apportionment of Representatives in the Constitution.—The Constitution provides that members of the House of Representatives shall be apportioned among the several States according to their respective numbers. The original rule for determining these numbers was that all free persons, including apprentices or persons bound to service for a term of years, but excluding Indians not taxed (or Indians living in tribal relations), and three-fifths of all other persons, should be counted. The "other persons" were the slaves. The abolition of slavery and the practical disappearance of apprenticeship have considerably simplified matters. The Fourteenth Amendment to the Constitution provides that Representatives shall be apportioned according to

population, counting the whole number of persons in a State, excluding Indians who are not taxed. This rule is applied to the people of the States regardless of age, sex, color, or condition. The Constitution further provides that the number of Representatives shall not exceed one for every 30,000 people, but that every State shall have one Representative regardless of population.

364. The Census.—The Constitution of 1787 fixed the number of members of the House of Representatives at 65, and apportioned them among the States as best it could, using the information in respect to population that was accessible. It also provided that an actual enumeration of the people should be made within three years of the first meeting of Congress, and that it should be repeated thereafter within every period of ten years. This enumeration was also called the census. In conformity with this provision, eleven decennial censuses of the United States have been taken, 1790, 1800, . . . 1890.

365. Method of Apportionments.—The decennial apportionment of members of the House is made by Congress, and that body has performed the duty in different ways. The apportionment of 1893 was made in the following manner: First, the House was conditionally made to consist of 356 members. Next, the population of the country, not counting the Territories, was divided by this number, which gave a ratio of 173,901. The population of every State was then divided by this ratio and the quotients added, giving 339. The numbers of Representatives indicated by these quotients were then assigned to the several States, and one Representative each in addition to the seventeen States having fractions larger than one-half the ratio, thus making the original number, 356. The admission of Utah has added one more.

When a new State comes into the Union, its Representative or Representatives are added to the number previously constituting the House.[1]

366. Elections of Representatives. — For fifty years Congress allowed the States to elect their Representatives in their own way. The State Legislatures fixed the times and the places and regulated the manner of holding the elections; the elections were conducted without any regulation or control whatever being exercised by the National Government. Very naturally there were considerable differences of practice. In 1842 Congress first exercised its power of regulation. Three points must be noted:—

1. Since 1842 Congress has provided by law that, in every case where a State was entitled to more than one Representative, the members to which it was entitled should be elected by districts composed of contiguous territory equal in number to the number of Representatives to be chosen, no district electing more than one. It is, however, provided that when the number of Representatives to which a State is entitled has been diminished at any decennial apportionment, and the State Legislature has failed to make the districting conform to the change,

[1] The Numbers of the House and the Ratios of Representation are set down in the following table, with the period:

Period.	Size of House.	Ratio.
1789-1793	65	
1793-1803	105	33,000
1803-1813	141	33,000
1813-1823	181	35,000
1823-1833	212	40,000
1833-1843	240	47.700
1843-1853	223	70,680
1853-1863	234	93,503
1863-1873	241	127,941
1873-1883	292	130,533
1883-1893	332	151,911
1893	357	173,901

the whole number shall be chosen by the State as a unit and not by districts. It is also provided that if the number apportioned to any State is increased, and the Legislature fails to district the State, the old districting shall stand, but that the additional member or members shall be elected by the State as a whole. Representatives elected on a general ticket, and not by district tickets, from States having more than one member, are called Representatives-at-large. Since 1872 Congress has prescribed that the districts in a State must, as nearly as practicable, contain an equal number of inhabitants. Congress has never constituted the Congressional districts, as they are called, but has always left that duty to the State Legislatures. As a rule the division of the States into districts, when once made, is allowed to stand for ten years, or until a new apportionment is made; but not unfrequently it is changed, or the State is re-districted, as the saying is, for the sake of obtaining some political advantage. The operation called "gerrymandering"[1] is only too well known in American history.

2. In 1871 Congress enacted that all votes for members of the House of Representatives should be by printed ballots, and that rule has continued until the present day.

3. In 1872 Congress prescribed that the elections should be held on the Tuesday next after the first Monday in November in every even numbered year, 1874, 1876 . . . . 1898, 1900, etc. Later legislation exempted from the

[1] The *Century Dictionary* gives the following history of this word: "*Gerrymander.* In humorous imitation of *Salamander*, from a fancied resemblance of this animal to a map of one of the districts formed in the redistricting of Massachusetts by the Legislature in 1811, when Elbridge Gerry was Governor. The districting was intended (it was believed, at the instigation of Gerry), to secure unfairly the election of a majority of Democratic Senators. It is now known, however, that he was opposed to the measure."

operation of this rule such States as had prescribed a different day in their constitutions. Accordingly Oregon elects her Representatives the first Monday of June, Vermont hers the first Tuesday of September, and Maine hers the second Monday of the same month.

In nearly every case, if not indeed in every one, the State elects State officers at the same time that the elections of the National House of Representatives are held. Moreover, the elections of Representatives are conducted by the same officers that conduct the State elections. These officers count the votes and make the returns required by law. The Representative receives his certificate of election from the Governor of his State. If a vacancy occurs in any State, owing to any cause, the Governor issues a proclamation, called a writ of election, appointing a special election to fill the vacancy.

367. Compensation of Members of Congress.—Senators and Representatives receive a compensation from the Treasury of the United States. Congress fixes by law the pay of its own members, subject only to the President's veto.[1]

[1]The compensation at different times is exhibited in the following table:

1789–1815	$ 6.00 a day.
1815–1817	1500.00 a year.
1817–1855	8.00 a day.
1855–1865	3000.00 a year.
1865–1871	5000.00 a year.
1871–1873	7500.00 a year.
1873–1896	5000.00 a year.

Save for a period of only two years, Senators and Representatives have always received a mileage or traveling allowance. At present this allowance is twenty cents a mile for the necessary distance traveled in going to and returning from the seat of government. The Vice-President, the President *pro tempore* of the Senate, and the Speaker of the House of Representatives now receive each a salary of $8,000 a year.

368. Privileges of Members of Congress.—In all cases but treason, felony, and breach of the peace, Senators and Representatives are exempt from arrest during their attendance at the session of their respective houses and in going to and returning from the same. In other words, unless he is charged with one or more of the grave offenses just named, a member of either house cannot be arrested from the time he leaves his home to attend a session of Congress until he returns to it. Further, a Senator or Representative cannot be held responsible in any other place for any words that he may speak in any speech or debate in the house to which he belongs. This rule protects him against prosecution in the courts, even if his words are slanderous. Still more, speeches or debates, when published in the official report called "The Congressional Record," are also privileged matter, and the speakers cannot be held accountable for libel. This freedom from arrest and this exemption from responsibility in respect to words spoken in the discharge of public duty, are not privileges accorded to the Senator and Representative in their own interest and for their own sake, but rather in the interest and for the sake of the people whom they represent. If they were liable to arrest for any trivial offense, or if they could be made to answer in a court of law for what they might say on the floor of Congress, the business of the country might be interfered with most seriously. The rights of legislative bodies must be rigidly maintained. The one rule given above is necessary to protect the freedom of representation, the other to protect the freedom of debate.

369. Prohibitions Placed Upon Members of Congress.—No Senator or Representative can, during the time for which he was elected, be appointed to any civil

office under the United States that is created, or the pay of which is increased, during such time. Appointments to many offices, and to all of the most important ones, are made by the President with the advice and consent of the Senate. Moreover, the President is always interested in the fate of measures that are pending before Congress, or are likely to be introduced into it. There is accordingly a certain probability that, if he were at liberty to do so, the President would enter into bargains with members of Congress, they giving him their votes and he rewarding them with offices created or rendered more lucrative for that very purpose. This would open up a great source of corruption. A Senator or Representative may, however, be appointed to any office that existed at the time of his election to Congress, provided the compensation has not been since increased. Still he cannot hold such office while a member of Congress. On the other hand, the Constitution expressly declares: "No person holding any office under the United States shall be a member of either house during his continuance in office."

370. Length of Congress.—The term Congress is used in two senses. It is the name of the National Legislature as a single body, and it is also the name of so much of the continuous life of that body as falls within the full term of office of the Representative. We speak of Congress, and of a Congress. Thus there are a First, Second, ... and Fifty-sixth Congress, filling the periods 1789-1791, 1791-1793 . . . . . 1899-1901. The length of a Congress was fixed when the Convention of 1787 made the Representative's term two years. The time of its beginning and ending was due to an accident. The Old Congress provided in 1788 for setting the new Government in operation; it named

the first Wednesday of March, 1789, as the day when the two Houses of Congress should first assemble, which happened to be the fourth day of that month. Thus a point of beginning was fixed and, as the rule has never been changed, our Congresses continue to come and go on the fourth of March of every other year. The present procedure is as follows: Representatives are chosen in November of every even year, 1896, 1898, 1900, while their terms, and so the successive Congresses, begin on March 4 of every odd numbered year, 1895, 1899, 1901.

While Representatives come and go together at intervals of two years, Senators come and go in thirds at the same intervals. The result is that while a House of Representatives lasts but two years, the Senate is a perpetual body.

371. Meeting of Congress.—Congress must assemble at least once every year, and such meeting is on the first Monday of December, unless by law it names another day. Hence every Congress holds two regular sessions. Furthermore, Congress may by law provide for special sessions, or it may hold adjourned sessions, or the President, if he thinks it necessary, may call the Houses together in special session. As a matter of fact, all of these things have been done at different times. As the law now stands the first regular session of Congress begins on the first Monday of December following the beginning of the Representative's term, and it may continue until the beginning of the next regular session, and commonly does continue until midsummer. The second regular session begins the first Monday of December, but can continue only until March 4 of the next year, or until the expiration of the Representative's term. It is the custom to call these the long and the short sessions.

CHAPTER XXXI

THE ORGANIZATION OF CONGRESS AND ITS METHOD OF DOING BUSINESS

The American Government. Sections 275; 293–294; 312–323; 331–340.

372. Officers of the Senate.—The Vice-President of the United States is President of the Senate, but has no vote unless the Senators are equally divided. The Senate chooses its other officers, the Secretary, Chief Clerk, Executive Clerk, Sergeant-at-Arms, Door Keeper, and Chaplain. The duties of these officers are indicated by their titles. The Senators also choose one of their number President *pro tempore*, who presides in the absence of the Vice-President or when he has succeeded to the office of President. The Senate is a perpetual body and is ordinarily fully organized, although not in actual session, at any given time.

373. Officers of the House of Representatives.—The House chooses one of its members Speaker, who presides over its proceedings. It also chooses persons who are not members to fill the other offices, the Clerk, Sergeant-at-Arms, Postmaster, and Chaplain. The Speaker has the right to vote on all questions, and must do so when his vote is needed to decide the question that is pending. He appoints all committees, designating their chairmen, and is himself chairman of the important Committee on Rules. His powers are very great, and he is sometimes said to exercise as much

influence over the course of the Government as the President himself. The Speaker's powers cease with the death of the House that elects him, but the Clerk holds over until the Speaker and Clerk of the next House are elected, on which occasion he presides. It is common to elect an ex-member of the House Clerk.

374. The Houses Judges of the Election of their Members.—The Houses are the exclusive judges of the elections, returns, and qualifications of their members; that is, if the question arises whether a member has been duly elected, or whether the returns have been legally made, or whether the member himself is qualified, the house to which he belongs decides it. In the House of Representatives contested elections, as they are called, are frequent. As stated before, the Governor of the State gives the Representative his certificate of election, which is duly forwarded to Washington addressed to the Clerk of the House next preceding the one in which the Representative claims a seat. The Clerk makes a roll of the names of those who hold regular certificates, and all such persons are admitted to take part in the organization of the House when it convenes. Still such certificate and admission settle nothing when a contestant appears to claim the seat. The House may then investigate the whole case from its very beginning, and confirm the right of the sitting member to the seat, or exclude him and admit the contestant, or declare the seat vacant altogether if it is found that there has been no legal election. In the last case, there must be a new election to fill the vacancy. The Governor of the State also certifies the election of the Senator. A Senator-elect appearing with regular credentials is admitted to be sworn and to enter upon his duties, but the Senate is still at liberty to inquire into his election and qualifi-

cations, and to exclude him from his seat if, in its judgment, the facts justify such action. In respect to qualifications, it may be said that persons claiming seats, or occupying them, have been pronounced disqualified because they were too young, or because they had not been naturalized a sufficient time, or because they had been guilty of some misconduct. From the decision of the Houses in such cases there is no appeal.

375. Quorums.—The Houses cannot do business without a quorum, which is a majority of all the members; but a smaller number may adjourn from day to day, and may compel the attendance of absent members. Whether a quorum is present in the House of Representatives or not, is determined by the roll-call or by the Speaker's count. If a quorum is not present, the House either adjourns or it proceeds, by the method known as the call of the House, to compel the attendance of absentees. In the latter case officers are sent out armed with writs to arrest members and bring them into the chamber. When a quorum is obtained, the call is dispensed with and business proceeds as before. In several recent Congresses a rule has prevailed allowing the names of members who were present but who refused to vote to be counted, if necessary, for the purpose of making a quorum.

376. Rules of Proceedings.—Each house makes its own rules for the transaction of business. The rules of the Senate continue in force until they are changed, but those of the House of Representatives are adopted at each successive Congress. Still there is little change even here from Congress to Congress. Owing to the greater size of the body, the rules of the House are much more complex than the rules of the Senate. The rules of both Houses, like the rules of all legislative

assemblies in English-speaking countries, rest ultimately upon what is known as Parliamentary Law, which is the general code of rules that has been progressively developed by the English Parliament to govern the transaction of its business. Still, many changes and modifications of this law have been found necessary to adapt it to the purposes of Congress, and especially of the House of Representatives.

377. Power to Punish Members.—The Houses may punish members for disorderly behavior, and by a vote of two-thirds may expel members. These necessary powers have been exercised not unfrequently. In 1842 the House of Representatives reprimanded J. R. Giddings, of Ohio, for introducing some resolutions in relation to slavery; while the Senate in 1797 expelled William Blount, of Tennessee, for violating the neutrality laws, and in 1863 Mr. Bright, of Indiana, for expressing sympathy with the Southern secessionists. From the decisions of the Houses in such cases there is no appeal.

378. Journals and Voting.—The Houses are required to keep a full history of their proceedings in records called journals, and to publish the same except such parts as in their judgment require secrecy. But as the House of Representatives always sits with open doors, the provision in respect to secrecy has no practical effect in that body. It is also null in the Senate except in executive sessions. These are secret sessions held for the transaction of special business sent to the Senate by the President, as the consideration of treaties and nominations. The yeas and nays must be called, and must be entered on the journal, when such demand is made by one-fifth of the members present. The object of these rules is to secure full publicity in regard to what is done in Congress. On the call of the roll, which is the only

form of voting known in the Senate, members are entered as voting yea or nay, as absent or not voting. In the House votes are taken in three other ways: by the *viva voce* method, the members answering aye or no when the two sides of the question are put; by the members standing until the presiding officer counts them; by the members passing between two men called tellers, who count them and report the numbers of those voting on the one side and on the other, to the Chair.

379. Mode of Legislating.—A bill is a written or printed paper that its author proposes shall be enacted into a law. Every bill that becomes a law of the United States must first pass both Houses of Congress by majority votes of quorums of their members. Still more, this must be done according to the manner prescribed by the rules, which on this subject are very minute. For example, no bill or joint resolution can pass either house until it has been read three times, and once at least in full in the open house. The presiding officers of the two Houses certify the passage of bills by their signatures. When a bill has thus passed Congress it is sent to the President for his action, who may do any one of three things with it.

380. Action of the President.—1. The President may approve the bill, in which case he signs it and it becomes a law.

2. He may disapprove the bill, in which case he sends it back to the house that first passed it, or in which it originated, with his objections stated in a written message. In such case he is said to veto it. This house now enters the message in full on its journal and proceeds to reconsider the bill. If two-thirds of the members, on reconsideration, vote to pass the bill, it is sent to the other house, which also enters the message on

its journal and proceeds to reconsider it. If two-thirds of this house also vote for the bill, it becomes a law notwithstanding the President's objections. The bill is now said to pass over the President's veto. In voting on vetoed bills the Houses must vote by yeas and nays, and the names of those voting be entered on the journal. If the house to which the bill is returned fails to give it a two-thirds vote, the matter goes no farther; if the second one fails to give it such vote, the failure is also fatal. In either case the President's veto is said to be sustained.

3. The President may keep the bill in his possession, refusing either to approve or disapprove it. In this case, it also becomes a law, when ten days, counting from the time that the bill was sent to him, have expired, not including Sundays. However, to this rule there is one important exception. If ten days do not intervene between the time that the President receives the bill and the adjournment of Congress, not counting Sundays, it does not become a law. Accordingly the failure of the President to sign or to return a bill passed within ten days of the adjournment defeats it as effectually as a veto that is sustained by Congress could defeat it. The President sometimes takes this last course, in which case he is said to "pocket" a bill or to give it a "pocket" veto.

381. Orders, Resolutions, and Votes. — Every order, resolution, or vote to which the concurrence of both Houses of Congress is necessary, save on questions of adjournment, must be sent to the President for his approval. This rule prevents Congress enacting measures to which the President may be opposed by calling them orders, resolutions, or votes and not bills. Still the resolutions of a single house, or joint resolutions that merely declare opinions and do not enact legislation, are not subject to this rule. Nor is it necessary for the Pres-

ident to approve resolutions proposing amendments to the Constitution of the United States.

382. The Committee System.—To a great extent legislation is carried on in both Houses by means of committees. These are of two kinds. Standing committees are appointed on certain subjects, as commerce, the post-office, and foreign affairs, for a Congress. Special committees are appointed for special purposes. The House of Representatives has more than fifty standing committees; the Senate not quite so many. All House committees are appointed by the Speaker. Senate committees are elected by the Senators on caucus nominations. The standing committees of the House consist of from three to seventeen members; of the Senate from two to thirteen. The committees draw up bills, resolutions, and reports, bringing them forward in their respective houses. To them also bills and resolutions introduced by single members are almost always referred for investigation and report before they are acted upon in the house.

383. Adjournments.—The common mode of adjournment is for the two Houses to pass a joint resolution to that effect, fixing the time. The President may, in case of a disagreement between the Houses respecting the time of adjournment, adjourn them to such time as he thinks proper; but no President has ever had occasion to do so. Neither House, during the session of Congress, can, without the consent of the other, adjourn for more than three days, or to any other place than the one in which Congress shall be sitting at the time. It is therefore practically impossible for the two Houses to sit in different places, as one in Washington and the other in Baltimore. As is elsewhere explained, the Senate may sit alone to transact executive business, if it has been convened for that purpose.

CHAPTER XXXII

THE IMPEACHMENT OF CIVIL OFFICERS

The American Government. Sections 302-311; 484.

384. Impeachment Defined.—In the legal sense, an impeachment is a solemn declaration by the impeaching body that the person impeached is guilty of some serious misconduct that affects the public weal. In the United States, the President, Vice-President, and all other civil officers are subject to impeachment for treason, bribery, or other high crimes and misdemeanors. In England, military officers and private persons may be impeached as well as civil officers. The "other crimes and misdemeanors" mentioned in the Constitution are not necessarily defined or prohibited by the general laws. In fact, few of them are so treated. Impeachment is rather a mode of punishing offenses that are unusual, and that, by their very nature, cannot be dealt with in the general laws. Thus Judge Pickering was impeached in 1803 for drunkenness and profanity on the bench, and Judge Chase the next year for inserting criticisms upon President Jefferson's administration in his charge to a grand jury, while President Johnson was impeached in 1867, among other things, for speaking disparagingly of Congress. But none of these acts were prohibited by the laws. Senators and Representatives are exempt from impeachment.

385. The Power of the House.—The House of Representatives has the sole power of impeachment, as

the House of Commons has in England. The following are the principal steps to be taken in such case. The House adopts a resolution declaring that Mr. —— be impeached. Next it sends a committee to the Senate to inform that body of what it has done, and that it will in due time exhibit articles of impeachment against him and make good the same. The committee also demands that the Senate shall take the necessary steps to bring the accused to trial. Then the House adopts formal articles of impeachment, defining the crimes and misdemeanors charged, and appoints a committee of five managers to prosecute the case in its name, and in the name of the good people of the United States. These articles of impeachment are similar to the counts of an indictment found by a grand jury in a court of law.

386. The Power of the Senate.—The action of the House of Representatives settles nothing as to the guilt or innocence of the person accused. The Constitution places the power to try impeachments exclusively in the Senate, as in England it is placed exclusively in the House of Lords. So when the House has taken the first step described in the last paragraph, the Senate takes the action that is demanded. It fixes the time of trial, gives the accused an opportunity to file a formal answer to the charges that have been made against him, and cites him to appear and make final answer at the time that has been fixed upon for the trial. The Senators sit as a court, and when acting in such a capacity they must take a special oath or affirmation. When the President is tried, the Chief Justice presides. No person shall be convicted unless two-thirds of the Senators present vote that he is guilty of one or more of the offenses charged. As the Vice-President would have a personal interest in the issue should the President be put on trial, owing to

the fact that the Vice-President succeeds to the presidency in case of the removal of the President, it would manifestly be a gross impropriety for him to preside in such case. He would be in a position to influence the verdict.

387. The Trial.—The Senate sits as a court, as before explained. The ordinary presiding officer occupies the chair on the trial, save in the one excepted case of the President. At first the House of Representatives attends as a body, but afterwards only the five managers are expected to attend. The accused may attend in person and speak for himself; he may attend in person, but entrust the management of his cause to his counsel; he may absent himself altogether, and either leave his cause to his counsel or make no defense whatever. Witnesses may be brought forward to establish facts, and all other kinds of legal evidence may be introduced. The managers and the counsel of the accused carry on the case according to the methods established in legal tribunals. When the case and the defense have been presented, the Senators discuss the subject in its various bearings, and then vote yea or nay upon the various articles that have been preferred. The trial is conducted with open doors, but the special deliberations of the Senate are carried on behind closed doors. A copy of the judgment, duly certified, is deposited in the office of the Secretary of State.

388. Punishment in Case of Conviction.—The Constitution declares that judgment in cases of conviction shall not go further than to work the removal of the officer convicted from his office, and to render him disqualified to hold and enjoy any office of honor, trust, or profit under the United States. It declares also that all persons who are impeached shall be removed from office

on conviction by the Senate. Here the subject is left. It is therefore for the Senate to say whether, in a case of conviction, the officer convicted shall be declared disqualified to hold office or not, in the future, and this is as far as the discretion of the Senate extends. Whatever the punishment may be, it is final and perpetual. The President is expressly denied the power to grant reprieves and pardons in impeachment cases. This is because such power, once lodged in his hands, would be peculiarly liable to abuse. But this is not all. If the crimes or misdemeanors of which an officer has been convicted are contrary to the general laws, he is still liable to be indicted, tried, judged, and punished by a court of law just as though he had not been impeached.

389. Impeachment Cases.—There have been but seven such cases in the whole history of the country. William Blount, Senator from Tennessee, 1797–98; John Pickering, District Judge for New Hampshire, 1803–1804; Samuel Chase, Justice of the Supreme Court, 1804–1805; James Peck, District Judge for Missouri, 1829–1830; W. W. Humphreys, District Judge for Tennessee, 1862; Andrew Johnson, President of the United States, 1867; W. W. Belknap, Secretary of War, 1876. Only Pickering and Humphreys were found guilty.

CHAPTER XXXIII

THE GENERAL POWERS OF CONGRESS

The American Government. Sections 341-418.

In a free country the legislative branch of the government tends to become the most powerful of all the branches, overtopping both the executive and the judiciary. This is true in the United States. The powers of Congress are divisible into general and special powers, of which the first are by far the more important. The general powers are described in section 8, Article 1, of the Constitution, and occupy eighteen clauses. They will now be described.

390. Taxation.—Revenue is the life-blood of government. The first Government of the United States failed miserably, and largely because it could not command money sufficient for its purposes. When the present Government was constituted, good care was taken to guard this point. It was clothed with the most ample revenue powers. Congress may, without limit, lay and collect taxes to pay the debts and provide for the common defense and general welfare of the United States. These taxes are of two kinds, direct and indirect. Direct taxes are taxes on land and incomes and poll or capitation taxes. Here the taxes are paid by the person owning the land or enjoying the income. Taxes on imported goods, called customs-duties and sometimes imposts, and taxes on liquors paid at the distillery or brewery, and on cigars and tobacco paid at the factory, are indirect taxes. Here the tax is added to the price of the article

by the person who pays it in the first instance, and it is ultimately paid by the consumer. Taxes of the second class are collectively known as internal revenue to distinguish them from customs or duties, which might be called external revenue. The term excise, used in the Constitution but not in the laws, applies to this great group of taxes. They are collected through the Internal Revenue Office in the Treasury Department. Direct taxes have been levied only five times by the National Government. Customs and internal revenue have always been its great resources.

391. Special Rules.—In levying taxes Congress must conform to several rules that the Constitution prescribes. All taxes must be uniform throughout the United States. In legislating on commerce and revenue, Congress must take care not to show a preference for the ports of one State over those of another State. Direct taxes, like Representatives, must be apportioned among the States according to population. And finally, no tax or duty can be laid on any article of commerce exported from any State.

392. Borrowing Money—Bonds.—Public expenditures cannot always be met at the time by the public revenues. It becomes necessary in emergencies for governments to borrow money and contract debts. Congress borrows money on the credit of the United States. The principal way in which it exercises this power is to sell bonds. These bonds are the promises or notes of the Government, agreeing to pay specified amounts at specified times at specified rates of interest. During the Civil War more than five billion dollars of such bonds were sold, many of them to replace others that were cancelled. At the present time a large amount of Government bonds is outstanding.

393. Treasury Notes.—Congress also authorizes the issue of Treasury notes, called by the Constitution "bills of credit." They are paid out by the Treasury to meet the expenses of the Government, and while they continue to circulate they constitute a loan that the people who hold them have made to the Government. Such notes were occasionally issued before the Civil War, and since that event they have played a very important part in the history of the National finances. In 1862 Congress authorized the issuance of Treasury notes that should be a legal tender in the payment of all debts, public and private, except duties on imports and interest on the National debt. These notes were not payable on demand, or at any particular time; they did not bear interest, and were not for the time redeemable in gold or silver, which, since 1789, had been the only legal-tender currency of the country. In 1879 the Treasury, in obedience to a law enacted several years before, began to redeem these notes in gold on presentation, and it has continued to do so until the present time. Still they have never been retired from circulation, or been cancelled on redemption, but have been paid out by the Treasury the same as other money belonging to the government. They are popularly called "greenbacks."

394. Commerce.—Congress has power to regulate commerce with foreign nations, among the States, and with the Indian tribes. The exclusive control of commerce by the States, under the Confederation, was a great cause of the hopeless weakness of that government. (See Chap. XXVII.) It may indeed be said that the commercial necessities of the country, more than anything else, compelled the formation of the new Government in 1789. Tariff laws, or laws imposing duties on imported goods, are regulations of commerce, and so are laws

imposing tonnage duties, or duties on the carrying capacity of ships, and laws prescribing the manner in which the foreign trade of the country shall be carried on. The construction or improvement of harbors, the building of lighthouses, surveys of the coasts of the country, and laws in relation to emigration all come under the same head. In order the better to regulate commerce among the States, Congress created the Interstate Commerce Commission, and it has passed a law in relation to the subject of trusts. The Constitution lays down the rule relating to interstate commerce that vessels bound to or from one State to another shall not be required to enter or clear, or to pay duties.

395. Naturalization.—All persons born or naturalized in the United States and subject to their jurisdiction are citizens of the United States, and of the State in which they reside. Citizenship, or the state of being a citizen, is membership in the state, or body politic. Congress has provided that a foreigner, unless he belongs to the Mongolian race, may become a citizen, or be naturalized, as the saying is, on his compliance with certain terms and conditions. A residence of five years is necessary. Two years before his admission to citizenship the alien must declare on oath, before a court of record, his intention to become a citizen. On the expiration of the two years, he must prove to this court, or some other one having the same jurisdiction, that he has resided in the United States at least five years, and in the State or Territory at least one year; that he is a man of good moral character; that he is attached to the Constitution, and that he is well disposed to the United States. He must also swear to support the Constitution, must renounce all allegiance to any foreign state or prince,

and lay aside any title of nobility that he has held. He then receives a certificate stating that he is a citizen of the United States, and he becomes entitled to all the rights of a native-born citizen, except that he can never be President or Vice-President. His wife and his children under twenty-one years of age also become citizens. All laws in relation to naturalization must be uniform. The States may confer political rights upon foreigners, as the right to own land and vote within the State, but they cannot confer citizenship.

396. Bankruptcies.—A person who is insolvent, or unable to pay his debts, is termed a bankrupt; and a law that divides the property of such person among his creditors and discharges him from legal obligation to make further payment, is termed a bankrupt law. Congress has power to pass uniform laws in relation to this subject. It has passed four such laws, one in 1800, one in 1840, one in 1867, and one in 1898. The States sometimes pass insolvent laws having somewhat the same effect as bankrupt laws, but they are always subject to the National bankrupt law when there is one in force.

397. Coinage of the United States.—Congress coins money and regulates its value and the value of foreign coin circulating in the country. This power, taken in connection with other powers, enables Congress, if it chooses, to regulate the whole subject of money. At the present time the National mints are open to all persons for the coinage of gold. Depositors of standard gold are charged merely the value of the copper used in alloying the coin. The gold coins of the Government are the double-eagle, eagle, half-eagle, quarter-eagle, three-dollar piece, and one-dollar piece. These coins are legal tender in payment of all debts, public and

private.[1] Silver coins are now struck at the mints only on account of the Government, and not on account of private persons. These coins are the half-dollar, quarter-dollar, and dime, which are legal tender for debts not exceeding ten dollars. The Government also strikes coins of base metal for small change; the five-cent piece and the one-cent piece, which are legal tender in sums not exceeding twenty-five cents. At different times still other coins have been struck, and some of them are still in circulation. Mention may be made of the dollar, the trade dollar, the two-cent piece, and the half-dime.

398. **The Silver Dollar.**—The silver dollar was the original money-unit of the United States. It was coined, though never in very large quantities, from the founding of the mint in 1792 until 1873, when it was dropped from the list of legal coins. This fact is expressed in the phrase, "silver was demonetized." The minor silver coins, however, were produced as before. Congress also authorized for several years a new coin, called the trade dollar. In 1878 Congress restored the old silver dollar to the list of authorized coins, and instructed the Secretary of the Treasury to purchase silver bullion for the Government and to coin it into dollars, not less than $2,000,000, nor more than $4,000,000, a month. These dollars were also made a legal tender. In 1890 Congress passed a further act instructing the Secretary to purchase 4,500,000 ounces of silver a month on Government account, as before, and to coin it after July, 1891, at his discretion. In 1893 Congress repealed the purchase clause of the previous act, and the further

[1] Legal-tender money is money with which a debtor can legally pay a debt; that is, if he offers or tenders this money to his creditor, and his creditor refuses to take it, he is not obliged to make other payment.

coinage of silver dollars was discontinued. At no time since 1873 have private persons been permitted to deposit silver at the mints for coinage.

399. Fineness and Weight of Coins and Ratio of Metals.—The gold and silver coins of the United States are nine-tenths fine; that is, nine parts of the coins are pure metal and one part is alloy. This is called standard metal. Since 1834, the gold dollar has contained 23.2 grs. of pure metal and 25.8 grs. of standard metal. Since 1792 the silver dollar has contained 371¼ grs. of pure metal, and since 1837, 412½ grs. of standard metal. It is common to call the last named coin the 412½ gr. dollar. The amount of pure silver in a dollar's worth of the minor coins is 347.22 grs., and of standard silver 385.8 grs. The ratio of the gold dollar to the silver dollar is popularly said to be 1 to 16. Exactly it is 1 to 15.988. This has been the legal ratio since 1834. When it was established Congress assumed that 16 grs. of silver (nearly so) were equal to one grain of gold in value.

400. Gold and Silver Certificates.—To dispense with the necessity of handling so much metallic money, Congress has provided for the issuance of gold and silver certificates. One of these certificates is simply a statement that in consequence of the deposit of —— dollars of gold or silver, as the case may be, in the Treasury, the Government will pay the holder of the certificate the corresponding amount. These certificates pass as money, but are not a legal tender.

401. Counterfeiting.—Congress provides by law for punishing counterfeiting the coin and securities of the United States, its notes, bonds, etc. The term counterfeiting includes (1) manufacturing or forging coins or paper securities; (2) putting forged coins or securities in circulation; and (3) having them in possession for

that purpose. A person guilty of any one of these three offenses is punishable on conviction by a fine of not more than $5,000 and by imprisonment at hard labor for not more than ten years. Counterfeiting the notes of the National banks, letters patent, money orders, postal cards, stamped envelops, etc., is punishable by severe penalties; as is also counterfeiting the coins and securities of foreign governments.

402. The Independent Treasury. — Previous to 1846, save for a short period, the Government had no treasury of its own, but kept its money in banks and checked it out as it had occasion. In the year named a treasury was established in the Treasury Building at Washington, provided with rooms, vaults, and safes, and a Treasurer was appointed. Subtreasuries were also established in the principal cities of the country and put in charge of officers known as Subtreasurers. Subtreasuries are now to be found in New York, Boston, Charleston, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and San Francisco.

403. The National Banks.—In 1863 and 1864 Congress provided for the creation of the present system of National banks, which have played so important a part in the business of the country. These banks are directly managed by boards of directors chosen by their stockholders, but they are supervised by the Comptroller of the Currency, whose office is established in the Treasury Department. Their notes or bills, which are fully secured by National bonds belonging to the banks that are deposited in the office of the Comptroller at Washington, constitute a National currency.

404. Weights and Measures.—Congress has power to fix the standard of weights and measures, but has never fully exercised the power. In general the standards in

use are the same as those in use in England. The English brass Troy pound is the legal Troy pound at the mints, while the Imperial avoirdupois pound and the wine gallon rest upon usage. Congress has authorized the use of the metric system of weights and measures, but has not made it compulsory.

405. The Postal Service.—Congress has created the vast postal system of the country, the cost of which is now about $100,000,000 a year. The mails are carried by contractors. Postmasters paid $1,000 or more a year are appointed by the President for a term of four years; all others by the Postmaster-General at his pleasure. A great majority of the postmasters do not receive regular salaries, but a percentage on the income of their offices. Towns having gross post-office receipts of $10,000 or more have free mail delivery by letter-carriers. In towns of 4,000 inhabitants or more letters bearing a special 10-cent stamp are delivered by a special carrier immediately on their receipt. Letters may also be registered, to secure their greater safety in delivery on payment of a 10-cent fee. Money orders are also sold by certain post-offices called money-order offices, which to a limited extent take the place of money in the transaction of business.

406. Rates of Postage.—There are four classes of domestic mail matter bearing different rates of postage. All postage must be pre-paid in the form of stamps.

1. Letters, postal cards, and other written matter, and all packages that are closed to inspection. Save on postal cards and drop letters mailed at non-delivery offices, the rate is two cents an ounce or fraction of an ounce.

2. Periodicals, magazines, etc. The rate on matter of this class when sent from a registered publishing

office or a news agency is one cent a pound; when sent otherwise, it is one cent for every four ounces.

3. Books, authors' copy accompanying proof-sheets, etc., are charged one cent for two ounces or fraction of the same.

4. Merchandise limited to 4-pound packages is charged one cent an ounce.

407. Copyrights and Patent Rights.—For promoting science and the arts, Congress provides that authors may copyright their works and inventors patent their inventions for limited times. The author of a book, chart, engraving, etc., by means of a copyright, enjoys the sole liberty of printing, publishing, and selling the same for twenty-eight years, and on the expiration of this time he, if living, or his wife or his children if he be dead, may have the right continued fourteen years longer. An inventor also, by means of letters patent, enjoys the exclusive right to manufacture and sell his invention for seventeen years, and on the expiration of that period the Commissioner of Patents may extend the right, if he thinks the invention sufficiently meritorious. Copyrights are obtained at the office of the Library of Congress, patent rights at the Patent Office, both in Washington. The cost of a copyright is one dollar and two copies of the book or other work copyrighted. The cost of a patent right is $35.00. Every article that is copyrighted or patented must be appropriately marked.

408. Piracies and Felonies.—Congress defines the punishment of piracies and felonies on the high seas, and offenses against the Law of Nations. In a general sense piracy is robbery or forcible depredation of property on the seas, but Congress has by law declared some other acts, as engaging in the slave trade, to be piracy.

Felonies, strictly speaking, are crimes punishable by death. The Law of Nations is a body of rules and regulations that civilized nations observe in their intercourse one with another. The high seas are the main sea or ocean, which the law of nations limits by a line drawn arbitrarily at one marine league, or three miles, from the shore.

409. Powers of Congress in Relation to War.— Congress has the power to declare war, which in monarchical countries is lodged in the Crown. It raises and supports armies. It provides a navy. It makes rules for the government of the army and navy. It provides for calling out the militia of the States to execute the laws of the Union, to suppress insurrection, and repel invasion. It provides for organizing, arming, and disciplining the militia, and for the government of such of them as may be called into the service of the United States; but the States have authority to appoint the officers and to train the militia according to the discipline that Congress has prescribed. These powers are very far-reaching. Acting under the laws of Congress, President Lincoln, in the course of the Civil War, called into the service of the Union fully 3,000,000 men. A navy counting hundreds of vessels was also built. At present the army consists of 65,000 men. On January 1, 1899, the navy consisted of 229 vessels in service, while 33 more were in course of construction. The highest title in the army is Major-General, the highest in the navy Admiral. The soldiers of the United States are divided into the regular troops and the militia. The former are in constant service; the latter are the citizen soldiery enrolled and organized for discipline and called into service only in emergencies. In the fullest sense of the word, the militia are the able-bodied male citizens of the States

between the ages of eighteen and forty-five. The President cannot call them into active service for a longer period than nine months in any one year. In service, they are paid the same as the regular troops.

410. The Federal District.—Previous to 1789 the United States had no fixed seat of government, and Congress sat at several different places. The resulting evils led the Convention of 1787 to authorize Congress to exercise an exclusive legislation over a district, not more than ten miles square, that particular States might cede and Congress might accept for a capital. The cession of Maryland and the acceptance of Congress made the District of Columbia the Federal District, and an act of Congress made Washington the Capital of the Union. The various branches of the Government were established there in 1800. The District is now governed by a board of three commissioners, two appointed by the President and Senate, and one an engineer of the army who is detailed by the President for that purpose. Congress pays one-half the cost of government, the people of the District the other half. Congress also has jurisdiction over places within the States that have been purchased for forts, arsenals, magazines, dock-yards, and other needful public buildings.

411. Necessary Laws.—It must be borne in mind that the government of the United States is a government of delegated powers. Still these powers are not all expressly delegated. There are powers delegated by implication, as well as powers delegated in words. Congress is expressly authorized to make all laws that are necessary for carrying into effect the powers that have been described above, and all other powers that the Constitution vests in the Government of the United States, or any department or officer of that Government.

Congress, improves harbors, erects lighthouses, builds post-offices and custom houses, and does a thousand other things that are not particularly named in the Constitution, because in its judgment they are necessary to the execution of powers that are particularly named. The power to establish post-roads and post-offices, for example, or to create courts, involves the power to build buildings suitable for these purposes. This is known as the doctrine of implied powers.

Looking over the general powers of legislation that are vested in Congress, described above, we see how necessary they are to a strong and efficient government. They are the master power, the driving force, of our whole National system. If these eighteen clauses were cut out of the Constitution, that system would be like a steamship without an engine.

CHAPTER XXXIV

ELECTION OF THE PRESIDENT AND THE VICE-PRESIDENT

The American Government. Sections 446–474.

It is the business of the Executive Department of the Government to enforce the laws that the Legislative Department makes. Government in a free country begins with law-making, but it ends with law-enforcing. We are now to examine in two or three chapters the National Executive.

412. The Presidency.—Congress consists of two Houses, and each house consists of many members, but the Executive office is single, entrusted to one person. The Constitution vests the executive power in the President of the United States. This difference is due to the nature of the things to be done. Legislation demands varied knowledge, comparison of views, and deliberation. Administration calls for vigor, unity of purpose, and singleness of responsibility. The burden of National administration is imposed upon the shoulders of one man.

413. Presidential Electors.—The President and the Vice-President are elected by Electors appointed for that purpose. Each State appoints, in such manner as its Legislature may determine, a number of Electors equal to the whole number of its Senators and Representatives in Congress. Early in the history of the Government, different modes of appointing Electors were followed. Since the Civil War, with a single exception, there has been only one mode. All the States now proceed in the same way. This is to submit the question to

the people of the States at a popular election. With this point clearly in mind, we shall go forward to describe the whole series of steps that are taken in electing the President and the Vice-President of the United States.

414. Presidential Nominations.—Government in the United States, as in other free countries, is carried on by means of political parties. These party organizations desire to elect the President and control the Government. They hold National conventions, generally in the period June–August of the year before a President is to take his seat, to nominate candidates for President and Vice-President, and to adopt a statement of party doctrines or principles called a platform. These conventions are constituted under fixed rules, and are convoked by National committees. The Republican and Democratic conventions consist each of four delegates-at-large from every State, and twice as many district delegates as the State has members in the House of Representatives. As a rule the delegates-at-large are appointed by State party conventions, and the district delegates by district conventions. In the Republican convention a majority vote suffices to nominate candidates; in the Democratic convention the rule is two-thirds.

415. Electoral Tickets.—The next step is to make up the State Electoral tickets. First, State conventions name two Electors for the State called Electors-at-large, or Senatorial Electors. The conventions that name the delegates-at-large to the National conventions may, and often do, name also the candidates for Electors-at-large. Next district Electors are put in nomination, one from a Congressional district, generally by district conventions. The names of the candidates put in nomination by a given party brought together constitute the State

party ticket. No Senator or Representative, or other person holding an office of trust or profit under the United States, can be appointed an Elector.

The two steps that have been described belong wholly to the field of voluntary political action. The Constitution and the laws have nothing whatever to do with them.

416. Choice of Electors.—Congress fixes the day upon which the Electors are chosen. It is the same in all States, Tuesday following the first Monday of November, the day on which members of the House of Representatives are elected in most States. Persons who may vote for State officers and for Representatives may also vote for Electors. State officers conduct the election, and the Governor gives the successful candidates their certificates of election. The appointment of the Electors is popularly called the Presidential election. It is so in fact but not in law. In point of law the people do not elect the President and the Vice-President, but only Electors who elect them. In point of fact, as we shall soon see, they do both. All that the National authority has done up to this point is to fix the time of the appointment of Electors. Hereafter that authority directs every step in the process.

417. Meeting of the Electors.—On the second Monday of January, following their appointment, the Electors meet at their respective State capitals to vote for President and Vice-President. They name in their ballots the person for whom they vote as President, and in distinct ballots the person for whom they vote as Vice-President. No Elector can vote for persons for both offices from the same State that he himself resides in: one at least of the two candidates must belong to another State. The voting over, the Electors make distinct lists

of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they sign, certify, and seal. Three copies of these lists are made. Two of them they send to Washington addressed to the President of the Senate, one by mail and one by a special messenger. The other copy they deliver to the Judge of the United States District Court for the district in which they meet and vote. Congress by law names the day on which the Electors give their votes, and it must be uniform throughout the Union. The casting of their ballots by the Electors is the formal but not the real Presidential election.

418. Counting the Electoral Votes.—On the second Wednesday of February, the day named by Congress, the Senate and the House of Representatives meet in the hall of the House to witness the counting of the Electoral votes. The President of the Senate presides, the Speaker of the House sitting by his side. He opens the certificates of votes and hands them to tellers appointed by the Houses, who read and count the votes. The President of the Senate declares the result. The person having the greatest number of votes cast for President, if a majority of all, is declared President; the person having the greatest number of votes for Vice-President, if a majority of all, is declared Vice-President.

419. Election of the President by the House.—If no person has received for President the votes of a majority of all the Electors appointed, the House of Representatives must immediately choose the President from the three candidates who have had the most votes for that office. This election is by ballot. The votes are taken by States, the Representatives from a State having one vote. Nevada balances New York, Delaware Pennsylvania. A quorum to conduct the election consists of a member

or members from two-thirds of the States, and a majority of all the States is necessary to a choice. Twice has the House of Representatives chosen the President, Thomas Jefferson in 1801 and John Quincy Adams in 1825. Both of these elections were attended by great excitement.

If the House fails to choose a President, when the choice devolves upon that body, by March 4 following, then the Vice-President acts, as in the case of the death, removal, or resignation of the President.

420. Election of the Vice-President by the Senate.—If no person voted for as Vice-President has a majority of all the Electors appointed, then the Senate shall choose to that office one of the two candidates standing highest on the list of candidates for the Vice-Presidency. A quorum for this purpose consists of two-thirds of the whole number of Senators, and a majority of all the Senators is necessary to a choice.

421. Miscellaneous Provisions.—The Electors appointed from a State are often called a college; the Electors from all the States the Electoral colleges. Most of the States have empowered their colleges to fill vacancies that may occur in their number. In 1887 Congress passed an act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon. This law gives the States jurisdiction over disputed appointments of Electors. It also prescribes the method of proceeding when plural returns are made from any State and in cases where objections are made to a single return.[1]

[1] The method of electing President and Vice-President outlined above, is that prescribed by the Constitution as originally framed, together with the Twelfth Amendment. For the change introduced by this Amendment, see the Amendment in connection with Article II, section 1, clause 3, of the Constitution as first framed.

422. The Electoral System.—When the framers of the Constitution devised the method of election by means of Electoral colleges, they assumed that the Electors would be picked bodies of men, who would vote for the best men for President and Vice-President, regardless of popular feeling and private interest. It may be said that in the case of Washington the plan worked as they expected, but since his second administration it has never done so. No other part of the Constitution has proved so disappointing as the method of electing the President. In 1804 the Constitution was amended to correct evils that had declared themselves in the election of 1800; but the Twelfth Amendment, while accomplishing its immediate purpose, did not prevent the whole plan becoming a miserable failure. The men of 1787 did not foresee the part that politics and political parties would play in American affairs. As we have seen, the President and Vice-President are really named by one of the two great political conventions. The Electors are not chosen to exercise their own best judgment, but to cast their ballots for the party candidates. When once elected, the Electors are not legally bound to vote for these candidates, for the Constitution and laws make no mention of parties and conventions; but they are bound as party men and as men of honor, for they have consented to be elected on this understanding. As the system works, they have no free will whatever, and practically the Electoral colleges are pieces of useless governmental machinery.

CHAPTER XXXV

THE PRESIDENT'S QUALIFICATIONS, TERM, AND REMOVAL

The American Government. Sections 450; 476–482.

423. Qualifications. — The President must be a natural-born citizen of the United States. He must have attained the age of thirty-five years, and have been a resident of the country fourteen years at the time of his election. The Vice-President must have the same qualifications as the President.

424. Length of Term.—The term of office of both the President and the Vice-President is four years, and the two officers are eligible to successive re-elections. It has often been contended that it would be better to give the President a term of six or seven years, and then make him ineligible to a second election.

425. The President's Salary.—This is fixed by Congress. From 1789 to 1873 it was $25,000 a year; since 1873 it has been $50,000. Congress also provides the President the furnished house known as the White House for an official residence. The President's salary can neither be increased nor diminished after he has entered on the duties of his office. The first of these two prohibitions makes it impossible for him to enter into bargains with members of Congress, whereby they shall receive something that they deem desirable, at the same time that his compensation is increased. The second prohibition makes it impossible for Congress to reduce his compensation, and so to make the President its dependent or creature. All changes in the salary must therefore be prospective. Still further, the President cannot, during

his continuance in office, receive any other public emolument than his salary, such as a gift or present from the United States or from any State. The salary of the Vice-President is $8,000.

426. The President's Oath. — Before entering on the duties of his office, the President must take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States." This oath is in general a definition of the President's duties. He is exclusively an executive officer. The occasion on which the President takes this oath is popularly called his inauguration, and is marked by a good deal of parade and ceremony. The custom now is to conduct the inauguration on the East Front of the Capitol at Washington. The Chief Justice administers the oath, and the President delivers an address called his inaugural address. With the exception of the oath, none of these ceremonies are required by the Constitution or the laws, and they might be dispensed with. It is also customary for the Vice-President to take his oath in the Senate Chamber and to deliver a short speech to the Senators.

427. The Vice-President. — The only reason for creating the office of Vice-President was to have a proper officer at hand who could succeed to the Presidency in the case of a vacancy. The Vice-President becomes President when the President is removed, dies, resigns, or is unable to discharge the powers and duties of his office. The President can be removed only by conviction on impeachment. If he resigns he must file his resignation in writing in the office of the Secretary of State. Just what inability to discharge the duties of his office is, has never

been settled. President Garfield performed but one executive act from July 2, 1891, to his death, which occurred September 19 following. It was much discussed at the time whether a case of inability had arisen, but with no practical results. Four Vice-Presidents have become Presidents by succeeding to the office. When the Vice-President becomes President, he succeeds to all the powers, dignities, responsibilities, and duties of the office for the unexpired portion of the term and ceases to be Vice-President. The Constitution provides that the Vice-President shall be the President of the Senate, but this is merely for the purpose of giving dignity and consequence to an officer who, for the most part, would otherwise have nothing to do.

428. The Presidential Succession. — Who shall succeed to the Chief Executive office in case both the President and Vice-President die, resign, are removed, or are unable to perform the duties of the office? The Constitution says that Congress shall by law provide for such a case, declaring what officer shall act as President until the disability be removed or a President be elected. The present law, which dates from 1886, declares that first the Secretary of State shall succeed, then the Secretary of the Treasury in case of his death, removal, etc.; afterwards the Secretary of War, the Attorney-General, the Postmaster-General, the Secretary of the Navy, and the Secretary of the Interior in this order. No one of these officers, however, can succeed unless he has been confirmed by the Senate and has all the qualifications that are required of the President. If one of them succeeds he fills the unexpired portion of the term the same as the Vice-President. However, a case of the removal, etc., of both the President and the Vice-President has never yet occurred.

CHAPTER XXXVI

THE PRESIDENT'S POWERS AND DUTIES

The American Government. Sections 483–511.

As is remarked in another place, the oath that the President takes on his inauguration is a general definition of his duties. Still the Constitution declares further that he shall take care that the laws be faithfully executed, and shall commission all officers of the United States. More than this, it describes his duties with more or less detail.

429. Army and Navy.—The President is commander-in-chief of the army and navy of the United States, and of the Militia of the States also when they are called into the National service. The effective control of the National forces requires unity of judgment, decision, and responsibility. It is obvious that a congress or a cabinet would be a very poor body to place at the head of an army. The power entrusted to the President is a great one, but he cannot well abuse it so long as Congress alone can declare war, raise and support the army, provide the navy, make rules for the government of the military and naval forces, and provide by law under what conditions the President may call out the militia. The President delegates to chosen officers his authority to command the army and the navy in actual service.

430. The Pardoning Power.—Power to try, convict, and pass judgment upon persons charged with crimes and offenses under the laws of the United States is lodged in the courts alone. But courts sometimes commit mis-

takes, and sometimes special circumstances arise that make it proper to exercise clemency towards persons who are undergoing punishment for crime. Again, it may be wise to exercise clemency while the offender is on trial, or even before trial begins. So the President is authorized to grant reprieves and pardons for offenses against the United States, except in cases of impeachment. A reprieve is a temporary suspension of punishment that has been decreed; a pardon is a full release from punishment either before or after it has been decreed. Commonly, however, a pardon comes after conviction.

431. Treaties.—A treaty is a solemn engagement or contract entered into between two or more sovereign or independent states. They relate to such subjects as commerce and trade, the rights of citizens of one country in the other, etc. Treaties also deal with the graver subjects of peace and war. The power to enter into a treaty properly belongs to the executive branch of government, as dispatch, secrecy, and unity of purpose are called for. As it might be dangerous in a republic to lodge the power exclusively in the Executive's hands, it is provided that the President, by and with the advice and consent of the Senate, shall have power to make treaties with foreign states.

432. Mode of Making a Treaty.—Commonly the steps that are taken are the following: First, the treaty is negotiated or agreed upon by the powers. The negotiation is conducted on the part of our Government by the Secretary of State, a minister residing at a foreign capital, or a minister or commissioner appointed for the purpose. The President, acting through the Department of State, directs the general course of the negotiation. Secondly, the treaty, when it has been negotiated, is wholly in the President's hands. If he disapproves

it, he may throw it aside altogether. If he approves it, or is in doubt whether he should approve it or not, he submits it to the Senate for its advice. Thirdly, the treaty is now wholly in the Senate's hands, except that the President may at any time that he chooses withdraw it from the Senate's further consideration. The Senate may approve or disapprove the treaty as a whole, it may propose amendments, or it may refuse to act at all. If the Senate amends the treaty it is practically a new one, and both the President and the foreign power must assent to it in its new form. The fourth step is an exchange of ratifications. This is a formal act by which the powers concerned signify that all the steps required to make the treaty binding have been taken. Finally, the President publishes the treaty and by proclamation declares it to be a part of the law of the land. The Senate considers treaties in executive session, and its advice and consent in most cases is merely approval or disapproval of what the President has done. A two-thirds vote of the Senate is necessary for the ratification of a treaty.

433. Appointment of Officers. — The President nominates, and by and with the advice and consent of the Senate, appoints ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States that are provided for by law, unless the Constitution itself provides for them. Congress may, however, place the appointment of such inferior officers as it thinks proper in the President alone, in the heads of Departments, and in the courts. The President appoints his private secretary and clerks. The appointment of a somewhat larger number of officers is placed in the courts, while the appointment of a very great number is vested in the heads of the Executive

Departments. Thus, the appointment of all postmasters whose salary is less than $1,000 is placed in the hands of the Postmaster-General. When all these exceptions have been made, a large number of appointments still remains to be made by the President and the Senate.

434. Mode of Appointment.—The first step to be taken in filling an office is for the President to make a nomination in writing to the Senate, specifying the office and naming the officer. The Senate refers the nomination to its proper committee, as of a judge to the Committee on the Judiciary, or of a foreign minister or consul to the Committee on Foreign Relations. The committee investigates the subject and reports the nomination back to the Senate, either with or without a recommendation that the nomination be confirmed. The Senate then grants or withholds its confirmation, as it is called. The Senate acts in such a case, as in the case of treaties, in executive session. If the Senate refuses to confirm, the President makes a second nomination, and so on until the place is filled. The Senate sometimes refuses to confirm a nomination if the Senators from the State where the office is, or one of them, objects to it. This is especially the case when the Senator or Senators belong to the political party that for the time has a majority of the body. This custom, which is wholly without support of law, is known as the courtesy of the Senate.

435. Ambassadors and Other Public Ministers.—Public ministers are representatives that one state or nation sends to another to look after its interests. Ambassadors are the highest rank of ministers. The other grades are envoys extraordinary or ministers plenipotentiary, ministers-resident, commissioners, and *chargés d' affaires*. The United States now have ambassadors at the capitals of England, France, Germany, Russia, Italy, and Mexico,

and representatives of inferior grade at many other capitals. The salaries paid these representatives, who are collectively called the diplomatic service, range from $5,000 to $17,500. The duties and rights of ministers are defined by the Law of Nations, called also International Law.

436. Receiving Ministers.—It is the duty of the President to receive ambassadors and other public ministers sent by foreign powers to our Government. This ceremony involves the recognition of the power from which the minister comes, and also his own recognition as a man acceptable to the United States. The President can refuse to receive a minister because he is personally objectionable, and can dismiss him for the same reason.

437. Consuls.—The duties of consuls are fixed by treaties and by the municipal law of the nation appointing them. In general it may be said that they look after the commercial interests of the country at large, and assist their countrymen in obtaining commercial rights and privileges. They also perform many other duties. They are business agents and do not rank as ministers. Sometimes, however, diplomatic duties are entrusted to them. A consul-general exercises supervision over the consuls of his country within the country to which he is sent, or within some designated portion of it. The President appoints about 30 consuls-general and about 300 consuls. The highest consular salary is $6,000. Many consuls receive their compensation in the form of fees.

438. Military and Naval Officers.—Unless otherwise provided by law, military and naval officers are appointed in the same manner as civil officers. Still the President, as commander-in-chief, has exclusive control of the commands to which they are assigned. He assigns officers to their places of duty, and removes them for what he deems sufficient reasons. Since 1866 the law

has been that no officer in the military or naval service shall, in time of peace, be dismissed from service except upon, and in pursuance of, the sentence of a court-martial, or in commutation thereof.

439. Removal from Office.—The President has the power of removal as well as of appointment. When the Senate is in session a removal is made in the following way: The President sends to the Senate a nomination, just as though the office were not already filled. If the Senate confirms this nomination, the President then commissions the officer and he enters upon the duties of his office. The former incumbent holds the office until the last of these steps has been taken. If the Senate refuses to confirm, the President must send in a second nomination or allow the incumbent to remain undisturbed. In a recess of the Senate a removal is made in a somewhat simpler way. The President now appoints directly, and at the same time gives the appointee his commission, who enters upon his office at once. When the Senate meets at its next session, the President must send to that body, for its action, the name of the appointee. If the Senate confirms the nomination, that is the end of the matter. If it refuses to confirm, the President must then make a second nomination. In either case the removal of the former incumbent is final and absolute.

440. Vacancies.—When a vacancy in any office occurs while the Senate is in session, the President makes a nomination, and matters proceed just as explained in the last paragraph. When the vacancy occurs in a recess of the Senate, the President appoints and commissions the officer, and the Senate acts on the nomination at its next session just as in the case of a removal made in the recess.

441. The Civil Service.—The persons who serve the Government in civil or non-military capacities are collectively called the civil service. They are divided into two classes called officers and employés. The two classes are not separated by any consistent rule or practice. Officers, who are much inferior in numbers to employés, are appointed and removed. Employés are employed and discharged, not appointed and removed. Laborers in the navy yards, arsenals, and the like are employés; so are many persons in continued service at custom houses and in other offices as well as many clerks. In 1896 the civil service consisted of 178,884 persons. Of these 113,276 were in the Post-office Department, 23,553 in the Treasury Department, 14,967 in the War Department, and 13,846 in the Interior Department. The others were distributed among the other Departments of the Government.

442. Civil Service Reform.—Until a short time ago it was the custom for the President and others who were clothed with the appointing power to make appointments and removals of officers for political reasons. The same practice prevailed also in respect to employés. On a change of the administration, and especially when it involved a change of party, great numbers of officers and employés would be removed or discharged to make room for others. A Democratic administration was expected to turn out the Republicans, and a Republican administration to turn out the Democrats. This was called the spoils system. Soon after the Civil War the civil service began to attract the attention of the country. Men saw that the spoils system was accompanied by great abuses and corruption. In 1882 an act was passed under which the service has been materially reformed. This act does not apply to any

office where the joint action of the President and Senate is required to make an appointment. It provides that in the Departments at Washington, and in custom-houses and post-offices where as many as fifty clerks are employed, appointments shall be made by reason of merit or fitness. Competitive examinations are held, and when a new appointment is to be made in any Department or office, as to fill a vacancy, it must be filled from the four persons standing highest on the list of those who have passed the examinations. This is called the eligible list. Every State or Territory is entitled to its fair share of the appointments, and no person can be finally appointed until he has served a probation of six months. This is called the merit system. The President, in the exercise of his discretion as the executive head of the Government, has extended this system to many classes of officers and employés that the law does not in terms include. Mention may be made of the Government Printing Office and of the Postal Railway Service.

443. The President's Message.—The President is required to give Congress information of the state of the Union from time to time, and to recommend to its consideration such measures as, in his judgment, are necessary and expedient for the good of the country. At the opening of each session of Congress, he sends to the Houses a written communication that is styled a message, conveying such information and making such recommendations. He also sends in from time to time special messages, conveying special information or recommendations as occasion requires. The communications in which the President makes nominations, transmits treaties to the Senate, and assigns his reasons for refusing to sign bills are also known as

messages. The heads of the several Departments make annual reports to the President, and these the President transmits at the same time that he sends in his annual message. Collectively they are called the Executive Documents. The Treasury Department reports to the House of Representatives.

444. Special Sessions of Congress.— The President, on extraordinary occasions, may call the Houses of Congress together in special session. In such cases he transmits a message explaining why he does so, and recommending such action as he thinks necessary to be taken. He may also convene either House of Congress alone, and it is the custom for the President, just before retiring from office, to issue a proclamation calling the Senate together immediately following the inauguration of his successor. This gives the new President an opportunity to nominate his Cabinet and such other officers as he thinks important to appoint at that time. No President has ever found it necessary to call the House of Representatives by itself.

CHAPTER XXXVII

THE EXECUTIVE DEPARTMENTS

The American Government. Sections 511–524.

The executive business of the Government is transacted through the eight Executive Departments, that Congress has by law created. The President's office in the White House exists only for his personal convenience and is not an office of record. All the public records are kept in the Departments through which the business is transacted. The Departments are established in Government buildings in Washington. The names of the Departments, with the dates of their establishment, are as follows: State, Treasury, War, Justice, formerly called the Office of the Attorney General, and Post-Office, 1789; Navy, 1798; Interior, 1849, and Agriculture, 1889. The heads of these Departments all receive the same salary, $8,000 a year.

445. Department of State.—At the head of this Department stands the Secretary of State, who is considered the head of the Cabinet. There are also three Assistant Secretaries of State. Under the direction of the President, the Secretary conducts the foreign and diplomatic business of the country. The originals of all treaties, laws, and foreign correspondence are in his custody. He also has in his possession the seal of the United States, and affixes it to public documents that require it, and also authenticates the President's proclamations with his signature. The business of the Department is conducted through various bureaus, such as Archives

and Statistics, the Diplomatic, and the Consular Bureaus, etc.

446. Department of the Treasury.—The Secretary of the Treasury proposes plans for the public revenues and credit, prescribes the manner of keeping the public accounts, superintends the collection of the revenue, issues warrants for the payment of moneys appropriated by Congress, and makes an annual report of the state of the finances. The several auditors of the Department examine the accounts of the different branches of the public service; the comptrollers certify the results to the Register, who has charge of the accounts and is the National book keeper. The Treasurer has the moneys of the Government in his custody, receiving and disbursing them. The Commissioner of Customs looks after the customs, the Comptroller of the Currency after the National Banks, and the Commissioner of Internal Revenue after that part of the public service. There are also directors of the Mint, of Statistics, and of Printing. The head of the Department is assisted by three Assistant Secretaries.

447. Department of War.—The Secretary of War directs the military affairs of the Government. He has charge of the army records, superintends the purchase of military supplies, directs army transportation and the distribution of stores, has the oversight of the signal service and the improvement of rivers and harbors, and looks after the supply of arms and munitions of war. The Department contains ten bureaus: The offices of the Adjutant, Quartermaster, Commissary, Paymaster, and Surgeon Generals, the Chief of Engineers, the Ordnance and Signal Office, the Bureau of Military Justice, and the Military Academy at West Point. There is also an Assistant Secretary of War.

448. Department of Justice.—The head of this Department is the Attorney-General, who is the responsible adviser of the President and the heads of the other Executive Departments on matters of law. He and his assistants look after the interests of the Government in the courts, prosecuting or defending law suits to which the United States are a party, and passing upon the titles of all lands purchased by the Government for forts or public buildings. There are in the Department a Solicitor General, four Assistant Attorney-Generals, two Solicitors of the Treasury, a Solicitor of Internal Revenue, a naval Solicitor, and an Examiner of Claims for the Department of State. The District Attorneys in the different judicial districts are also under the direction of the Attorney-General.

449. Post-Office Department. — Subject to the President, the Postmaster-General is the head of the vast postal service of the country. He has a larger number of subordinates than all the other heads of Departments together. The First Assistant Postmaster-General has charge of salaries and allowances, free delivery, money-orders, dead letters, and correspondence. The Second Assistant has charge of the transportation of mails, including contracts, inspection, railway adjustments mail equipment, railway mail service, and foreign mails. The Third Assistant has general charge of the finances of the department, including accounts and drafts, postage stamps and stamped envelopes, registered letters and classification of mail matter, special delivery and official files and indexes. The Fourth Assistant has general charge of appointments, including bonds and commissions, appointment of post-office inspectors, depredations on the mails, and violations of the postal laws.

450. Department of the Navy.—The Secretary of the Navy stands to this Department in the same relation that the Secretary of War stands to the War Department. There is one Assistant Secretary. The several bureaus of the department are: Yards and Docks, Equipment and Recruiting, Navigation, Ordnance, Medicine and Surgery, Provisions and Clothing, Steam Engineering, Construction and Repairs. The Military Academy at Annapolis is also subject to the Secretary of the Navy.

451. Department of the Interior.—The business intrusted to the Department of the Interior is much more miscellaneous and diversified in character than that intrusted to any other Department. The Secretary has general oversight of the Patent Office, Census Office, General Land Office, and Pension Office, Indian affairs, Public Buildings, and the Bureau of Education. The most extensive of these subordinate offices is that of Pensions, which disburses $140,000,000 annually. The Commissioner of Education collects facts and statistics in regard to education and publishes them in an annual report. There are two Assistant Secretaries of the Interior.

452. Department of Agriculture.—It is the duty of the Secretary of Agriculture to diffuse among the people useful information on the subject of agriculture, in the most general and comprehensive sense of that term. He has the supervision of all quarantine regulations for the detention and examination of cattle exported and imported that may be subject to contagious diseases. The Weather Bureau, over which "Old Probabilities" presides, is in this Department. There is one Assistant Secretary.

453. The Cabinet.—The heads of the eight Departments constitute what is called the Cabinet. This name, however, is a popular and not a legal one. The

law creates the Departments and defines the duties of their heads. The Constitution empowers the President to call for the opinions in writing of these officers on matters relating to their several duties. The heads of Departments are responsible to the country so far as their duties are definedby law; for the rest they are responsible to the President. They meet frequently with the President to discuss public business. The President defers more or less, as he pleases, to the views that they offer, as he does to the views that they express singly in writing or in conversation, but the Cabinet as such has no legal existence and is not responsible. No official record is made of its meetings. The Constitution makes the President alone accountable for the faithful execution of the laws. Heads of Departments hold their offices subject to the President's will; but he holds, with exceptions given, four years.[1]

[1] See the Cabinet and the President's responsibility, *The American Government*, paragraphs 522, 523, 524, and *Note*.

CHAPTER XXXVIII

THE JUDICIAL DEPARTMENT

The American Government. Sections 525-577.

The third of the independent branches of the Government of the United States created by the Constitution is the Judiciary. Its functions and organization will now be described.

454. Judicial Power Defined.—It is the business of the judiciary to interpret the law and apply it to the ordinary affairs of life. The judiciary does not make the law, but it declares what is law and what is not. This it does in the trial of cases, popularly called lawsuits. A case is some subject of controversy on which the judicial power can act when it has been submitted in the manner prescribed by law. It is particularly to be noted that the judicial power is strictly limited to the trial and determination of cases. Some cases involve questions of law, some questions of fact, some questions of both fact and law, and all come within the scope of the judicial power. A court is a particular organization of judicial power for the trial and determination of cases at law.

455. Vesting the Judicial Power.—The judicial power of the United States is vested in one Supreme Court and in such inferior courts as Congress sees fit to ordain and establish. The Constitution thus creates the Supreme Court, and it also provides that its head shall be the Chief Justice of the United States. At the present time the inferior courts are the District Court, the Circuit Court, the Circuit Court of Appeals, the

Court of Claims, and the Courts of the District of Columbia and the Territories.

456. Extent of the Judicial Power.—The judicial power is co-extensive with the sphere of the National Government. It embraces all cases that may arise under the Constitution and the laws of the United States, and the treaties entered into with foreign nations. It includes all cases affecting ambassadors, other public ministers, and consuls; all cases of admiralty and maritime jurisprudence; cases to which the United States are a party; cases that arise between two or more States, or between a State and foreign states; cases between citizens of different States, and cases between citizens of the same State who claim lands granted by different States, and cases between citizens of a State and foreign states, citizens, or subjects.

457. Kinds of Jurisdiction.—A court has jurisdiction of a case or suit at law when it may try it, or take some particular action with regard to it. There are several kinds of jurisdiction. A court has original jurisdiction of a case when the case may be brought or begun in that court. It has appellate jurisdiction when it may re-hear or re-examine a case that has been decided or has been begun in some inferior court. The methods by which this is done are called appeal and writ of error. An appeal brings up the whole question, both law and fact, for re-examination; a writ of error, the law only. A court has exclusive jurisdiction of a case when it is the only court that can try it or can dispose of it in some particular manner. Two or more courts have concurrent jurisdiction of a case when either one may try it, provided the case comes properly before it.

458. The District Court.—Congress has created sixty-nine Judicial Districts, in each one of which a Dis-

trict Court is organized. There is at least one district in every State, and in the most populous States there are two or more. There are only sixty-six District judges, as a few of the judges preside over two districts. Each district has its own District Attorney, who is the local law officer of the Government, a Clerk who keeps the records of the court and issues legal papers under its seal, and a Marshal who is the executive officer of the court. A District court must hold at least two terms every year. It has a limited range of jurisdiction in civil cases, and especially in admiralty and maritime jurisprudence; that is, in matters relating to shipping and navigation. It also has jurisdiction of many crimes and offences committed in the district.

459. The Circuit Court.—The seventy-two districts are grouped in nine Circuits. The first circuit contains four States and four districts, the second three States and five districts, and so on. One of the justices of the Supreme Court is assigned to each circuit, and is called the Circuit Justice. There are two Circuit judges in every circuit, and three in some circuits. The Circuit court sits from time to time in every district that the circuit contains. It may be held by the Circuit Justice, by one of the Circuit judges, or by the District judge of the district where the court is for the time sitting, or by any two of these sitting together. The district attorneys, clerks, and marshals mentioned before serve these courts also. The Circuit court has original jurisdiction in civil cases where the amount in controversy is $2,000, not counting costs, in copyright and patent cases, and many others. It has original jurisdiction in criminal cases, and in capital cases an exclusive one. Once it was also a Court of Appeals from the District court, but its appellate jurisdiction has been abolished.

460. The Circuit Court of Appeals.—In every circuit there is also a Circuit Court of Appeals. It consists of three or four judges, of whom two constitute a quorum. The Circuit Justice, the Circuit judges, and the District judges of the circuit are competent to sit in this court. The last, however, can sit only for the purpose of making a quorum in the absence of the Circuit Justice or of one or both of the Circuit judges. The law designates the places where these courts shall be held. First circuit, Boston; second, New York; third, Philadelphia; fourth, Richmond, Virginia; fifth, New Orleans; sixth, Cincinnati; seventh, Chicago; eighth, St. Louis, and ninth, San Francisco. The Circuit Court of Appeals can review many decisions made by the Districts and Circuit courts. In patent, revenue, criminal, and admiralty cases its decisions are final. These courts are exclusively courts of appeals, and they were created expressly to relieve the Supreme Court of a part of its business.

461. The Court of Claims.—The Government of the United States carries on vast business operations, and, as is natural, points of dispute are constantly arising. Formerly a person having a claim against the Government that the Executive Departments could not or would not pay, had no redress but to go to Congress for relief. This was unsatisfactory both to claimants and to the Government. To meet this difficulty, the Court of Claims was created and was given jurisdiction over certain classes of claims against the Government. The methods of procedure is for the claimant to enter a suit in court, which is regularly tried and determined. If judgment is rendered against the Government, Congress appropriates money to pay it. This court consists of a Chief Justice and four Associate Justices, and sits only in Washington. Congress has also vested a limited

jurisdiction in respect to claims in the District and Circuit courts.

462. The Federal District and the Territories.—Congress has established special courts for the District of Columbia and the Territories. The Supreme Court of the District consists of a Chief Justice and five Associate Justices, any one of whom may hold a court with powers similar to those exercised by the District judges in the States. The Territorial judicial system is similar to this, but the judges are fewer in number.

463. The Supreme Court.—The Supreme Court consists of the Chief Justice of the United States and eight Associate Justices. It holds one regular term each year at Washington, beginning the second Monday of October. This court has original jurisdiction in all cases relating to ambassadors and other public ministers and consuls, and those to which a State is a party. It has appellate jurisdiction, both as to law and fact, in all cases originating in the inferior courts, save such as Congress by law shall except. Nearly all the cases that the Supreme Court passes upon are appellate cases. Appeals may be made to it, and writs of error lie to it, from the District and Circuit courts, from the Court of Appeals, and from the Supreme Courts of the Federal District and the Territories.

464. Appointment of Judges.—The National judges are appointed by the President by and with the advice and consent of the Senate. The appointments are for good behavior, by which expression official behavior is meant. Nothing is more necessary to a judicial system than the independence of the judges. If they were elected by the popular vote, they might court the popular favor to secure an election. If they served for fixed periods, they might court the Senate and President to

secure re-appointment. The courts of the Federal District and of the Territories do not come within the Constitutional provisions. However, Congress has made the tenure of the first good behavior, and of the second a term of four years.

465. Pay of the Judges.—The salary of a judge can not be diminished while he continues in office, but it may be increased. If Congress could reduce the judge's salary after he had entered upon his term, it might control his action and make him dependent upon its will. The salary of the Chief Justice is $10,500; of the Associate Justices, $10,000; of the Circuit Judges, $6,000; and of District Judges, $5,000. Any judge who has held his commission ten years and has attained to the age of seventy, may resign his office and continue to draw his salary during the remainder of his life.

466. Concurrent Jurisdiction of National and State Courts.—The Constitution gives the Supreme Court an original jurisdiction in cases affecting public ministers and consuls, and cases to which a State may be a party. Congress has gone further and declared the jurisdiction of the National courts in certain cases to be an exclusive one. Patent and admiralty cases, for example, are of this class. Outside of this exclusive jurisdiction, Congress has given the State courts a civil jurisdiction concurrent with that of the National courts. Still more, some criminal offenses under the National laws may be prosecuted in the State courts, as those arising under the postal laws.

467. Appeals from State Courts.—The Constitution, laws, and treaties of the United States are the supreme law of the land. If the constitution or the laws of a State conflict in any way with this supreme law, such constitution or laws, so far as the confliction extends,

are null and void. Moreover, the power to decide what is, and what is not, a confliction with the National authority rests with the National judiciary. Hence, any case arising in the courts of a State that involves the National authority may be appealed to the National courts. Such cases are said to involve Federal questions. To this extent, therefore, the courts of the United States are the final and authoritative interpreters of the constitutions and laws of the States.

468. Rules Regulating Trials.—A jury system like that found in the States is a part of the National judiciary. All crimes, save in cases of impeachment, must be tried by an impartial jury of the State and judicial district where they have been committed. Crimes committed in the Federal District or in a Territory must be tried in the District or Territory. Crimes committed on the sea are tried in the district in which the accused is arrested, or into which he is first brought when the ship returns to the United States. No person can be put on trial for a capital or infamous crime until he has first been indicted by a grand jury; in such case the trial must be a speedy and public one, and the accused must be informed of the accusation made against him. He shall have the benefit of the compulsory power of the court to compel the attendance of witnesses, and shall also have the assistance of a lawyer for his defense. Excessive bail can not be required, or excessive fines be imposed, or cruel or unnatural punishments be inflicted. No person who has once been tried for an offense and found innocent, can be put on trial for that offense the second time. In a criminal case no man can be compelled to testify against himself, nor can any person be deprived of life, liberty, or property until he has been adjudged guilty according to the common course of the

law. In any civil suit at common law where the amount in controversy is more than twenty dollars, the right of trial by jury is also preserved. Rules like these will be found in the jurisprudence of the several States. These rules, however, relate exclusively to the National tribunals. The Fourteenth Amendment declares that no State shall deprive any person of life, liberty, or property without due process of law.

469. **Military Courts.**—Cases arising in the military and naval service are tried in special courts called courts-martial. This is true of the militia also when they are employed in the public service in time of war or public danger. In all such cases as these the rule in regard to an indictment by a grand jury has no application.

470. **Treason.**—Treason against the United States is either making war against them or siding with their enemies, rendering them aid and comfort. No person can be convicted of this crime, which is considered the greatest of all crimes, except on the testimony of two witnesses to the same offense, or on his own confession of guilt in open court. Congress has enacted two modes of punishment for treason at the discretion of the judge trying the case. The traitor shall suffer death; or he shall be imprisoned at hard labor for not less than five years, be fined not less than $10,000, and be pronounced incapable of holding any office under the United States.

CHAPTER XXXIX

NEW STATES AND THE TERRITORIAL SYSTEM

The American Government. Sections 584–597.

The Territorial System of the United States has played a very important part in their history. It is proposed in this chapter to show how it originated, and to describe its principal features.

471. The Original Public Domain.—At the time of the Revolution seven of the thirteen States, called the Claimant States, claimed the wild lands lying west of the Allegheny Mountains and extending to the Mississippi River and the Northern Lakes, which were then National boundaries. In time these States yielded their claims. When the Constitution was framed in 1787, the country northwest of the Ohio River had already come into possession of the Old Congress. The Southern cessions were made later. In general, the cessions to the Nation included both soil and jurisdiction—the ownership of the land and the right to govern the territory. The Northwestern cessions constituted the first Public Domain of the United States; that is, a territory belonging to the Nation in common. The Constitution gave Congress the power to dispose of the National territory, and to make all needful rules and regulations for its government. Before this, however, Congress had established a government over the existing domain, which was styled the Northwest Territory.[1]

472. Annexations.—Eight annexations of territory have been made to the United States: Louisiana purchase,

[1] B. A. Hinsdale, "*The Old Northwest*," Chapters V and VI.

1803; Florida, 1819; Texas 1845; Oregon, 1846; the two Mexican annexations, 1848 and 1853, Alaska, 1867, and the Hawaiian Island, 1898. Generally, these annexations were additions to the Public Domain and became at once subject to the control of Congress. Texas had been an independent power and was admitted to the Union as a State at once without passing through the Territorial probation. Subsequently Texas sold that part of her territory which now forms the eastern part of New Mexico to the United States.

473. Provision for New States.—The claimant States made their cessions of Western territory on the condition that, as rapidly as it became ready, such territory should be divided into new States to be admitted to the Union on an equality with the old ones. So a provision was inserted in the Constitution that authorized Congress to admit new States to the Union. But this was not all; some controversies had already arisen concerning the formation of new States out of old ones. So it was provided that no new State should be formed within the jurisdiction of any State, nor should any new State be formed by uniting two or more States, without the consent of the Legislatures concerned and of Congress.

474. Territories of the United States.—In a broad sense the whole dominion of the United States is their territory, States and Territories alike. But in common usage the term territory is limited to so much of the whole dominion as has not been formed into States. Still further, as thus limited the word is employed in two senses. An organized Territory is a part of the dominion having prescribed boundaries and a fully developed Territorial Government. Arizona, New Mexico, and Oklahoma are the only Territories of this class. An unorganized

Territory either has no government at all, or has a very rudimentary one carried on by officers sent from Washington. Thus civil government is administered in Alaska, which is an unorganized Territory, by a Governor and Commissioners appointed by the President and Senate.

475. Government of an Organized Territory.—Such a government is set up by Congress. The Governor, Secretary, and Territorial Judges are appointed by the President for four years, and are paid from the National Treasury. The Legislature consists of a house of representatives and a council, the members of which are elected by the qualified voters of the Territory. The Legislature legislates on subjects of local concern, subject to the Constitution and laws of the United States. For example, it may establish counties and townships and local self-government for the people. It may also establish a Territorial system of schools. The Governor exercises powers similar to those exercised by the Governor of a State, while the Secretary performs duties similar to those performed by a State Secretary of State. There are also a District Attorney and a Marshal appointed by the President. A Territory can not be represented in Congress or participate in the election of the President and Vice-President. Still an organized Territory is permitted to send a delegate elected by the people to the House of Representatives, who may speak but not vote. It will be seen that the status of a Territory is in all respects inferior to that of a State. A Territory is an inchoate State.

476. Admission of New States.—This subject has been committed wholly to the discretion of Congress. Congress makes the boundaries of the State, fixes the conditions of admission, gives the State its name, and

determines the time of admission. Congress settles some of the details in the act creating the Territory, and still others in a law providing for its admission called an Enabling Act. The principal steps to be taken are the following: First, the people of the Territory elect the members of a convention to frame a State constitution. Secondly, the convention thus elected performs the duty duly committed to it. Thirdly, the constitution is submitted to the people for their approval. Fourthly, Representatives and Senators are elected to represent the new State in Congress. Fifthly, comes the formal act of admission, which is sometimes performed by the President, who issues a proclamation to that effect in compliance with a law previously passed, and sometimes is performed by Congress passing an act called an act of admission.

477. States Admitted.—Thirty-two new States have been admitted to the Union. Vermont, Maine, West Virginia, Kentucky, and Tennessee were formed from old States and were never Territories. The facts in regard to Texas have been stated already. The other States, twenty-six in number, have been formed from the Public Domain; and, save California alone, have passed through the Territorial probation.

478. Indian Territory.—In the year of 1834 this Territory was set apart and dedicated by Congress as a home for so-called civilized tribes of Indians. Many tribes and portions of tribes removed there from east of the Mississippi River. The Indians keep up their tribal organizations of government, but they are subject to the general oversight of Congress. There is a United States Court in the Territory, which exercises jurisdiction over offenses committed against the laws of Congress so far as they are applicable.

479. The Public Lands.—Beginning in Southeastern Ohio, in 1786, the Government has caused the public lands to be surveyed according to a practically uniform system. They are first cut up into townships six miles square, and then these are subdivided into sections of 640 acres, which again are divided into lots of 160, 80, and 40 acres. The sections are now numbered, back and forth, in the following manner:

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

Such a township as this is called a Congressional township. As a rule, the States have based their divisions of counties and townships on the Government surveys, and it is this fact that gives the maps of the Western States such a checker-board appearance. In general Congress has followed a very liberal policy in respect to the public lands, selling them at low prices, giving them away as bounties to soldiers and to settlers under the homestead law, and granting them to States and railroads and other corporations to stimulate education and public improvements.

480. School Lands.—Beginning with Ohio, admitted to the Union in 1803, and continuing to Wisconsin, ad-

mitted in 1848, Congress gave section No. 16 in every Congressional township of the public-land States for the use of common schools. Beginning with California, in 1850, and continuing to the present, it has given sections 16 and 36 in every township for that purpose. Congress has also given every public-land State, or State formed out of the Domain, two townships of land for the support of a State university, and some of them more than two. It has also given lands for agricultural colleges and normal schools, and for other educational purposes.

481. New States.—The following table contains the names of the new States, and the dates of their admission to the Union:

Vermont, March 4, 1791.
Kentucky, June 1, 1792.
Tennessee, June 1, 1796.
Ohio, February 19, 1803.
Louisiana, April 8, 1812.
Indiana, December 11, 1816.
Mississippi, December 10,1817.
Illinois, December 3, 1818.
Alabama, December 14, 1819.
Maine, March 15, 1820.
Missouri, August 10, 1821.
Arkansas, June 15, 1836.
Michigan, January 26, 1837.
Florida, March 3, 1845.
Texas, December 29, 1845.
Iowa, December 28, 1846.
Wisconsin, May 29, 1848.
California, September 9, 1850.
Minnesota, May 11, 1858.
Oregon, February 14, 1859.
Kansas, January 29, 1861.
West Virginia, June 19, 1863.
Nevada, October 31, 1864.
Nebraska, March 1, 1867.
Colorado, August 1, 1876.
North Dakota, Nov. 2, 1889.
South Dakota, Nov. 2, 1889.
Montana, November 8, 1889.
Washington, Nov. 11, 1889.
Idaho, July 3, 1890.
Wyoming, July 10, 1891.
Utah, January 4, 1896.

CHAPTER XL

RELATIONS OF THE STATES AND THE UNION

The American Government. Sections 419-445; 578-583; 598-603; 608-620; 623-631; 644-654; 763-772.

Part II of this work describes the government of a single State. The preceding chapters of this Third Part describe the Government of the Union in its general features. It is very obvious that either one of these governments, by itself, would be very imperfect. It is equally obvious that they supplement each other. Each one is essential to the other and to society, and neither one is more essential than the other. The two together make up one system of government. The governments of the States are part of the Government of the Union, and the Government of the Union is a part of the governments of the States. The citizen is subject to two jurisdictions, one State and one National. Both of these jurisdictions have been created by the American people, and each one is exclusive and independent within its sphere. In other words, the United States are a federal state, and their Government is a federal government. Moreover, experience shows that such governments are complicated and delicate, and that they will not work well unless the two parts, local and general, are well adapted each to each like the parts of a machine.

482. The State Sphere.—The sphere of the State is well marked off. Matters of local and State concern are committed to its exclusive authority. Within its sphere,

the State is perfectly free to do what it pleases, taking good care not to infringe upon the sphere of the Union. It is the great business of the State government to preserve the peace and good order of society within its borders. It defines civil and political rights; defines and punishes crime; protects the rights of property, of person, and of life; regulates marriage and divorce; provides schools and education for the people, and does a hundred other things that it deems necessary to promote the physical, intellectual, and moral well-being of the people.

483. The National Sphere.—This is equally well defined. Matters of general, common, or National interest are committed to the Union. Here are the powers to levy taxes and borrow money for National purposes; to regulate foreign commerce; to conduct war; to carry on the post-office; to manage foreign relations, and to exercise the many other powers that are delegated by the National Constitution. It will be seen that these are matters in which the whole American people are interested. Within its sphere, the Nation is just as free and unlimited as the State is within the State's sphere.

484. The State and the Union.—Neither one of these jurisdictions is, strictly speaking, limited to matters purely local or purely national. The State does more than merely to look after local interests. The Union does more than merely to see to National affairs. Either authority does some things that, at first thought, might seem to belong exclusively to the other. In this way, great strength is imparted to the whole system, and it is made to do its work more thoroughly. This a series of paragraphs will show.

485. National Functions of the States.—The State participates directly in carrying on the Government of

the Union. It defines the qualifications of electors, establishes Congressional districts, conducts the elections of Representatives, elects members of the United States Senate, and appoints Presidential Electors. All these things are purely voluntary. The States cannot be compelled to do them, but if they should refuse or neglect to do them the whole National system would fall into ruins. But, more than this, the Union employs the State militia, and imposes duties upon the governors and judges of the States.

486. Prohibitions Laid on States.—The successful working of the National system makes it necessary that certain prohibitions shall be laid on the States. No State can enter into any treaty, alliance, or federation; coin money, issue paper money, make anything but gold and silver a tender in payment of debts, pass any law interfering with contracts, or grant any title of nobility. No State, without the consent of Congress, can levy duties or imposts on imports and exports, beyond what is necessary to pay the cost of its inspection service. No State can, without the consent of Congress, lay any tonnage tax on ships, keep troops or ships of war in time of peace, or enter into any compact or agreement with another State or a foreign power. No State can engage in war, unless it is actually invaded or in immediate danger of invasion.

487. Duties of State to State.—If the National System is to work smoothly, it is obvious that a good understanding among the States is necessary. The Constitution accordingly lays various commands upon the States in respect to their relations one to another. The acts, records, and judicial processes of any State are respected by every other State, so far as they can have any application. For example, a marriage contracted or a

divorce granted in one State is a marriage or a divorce in every other State. Citizens of one State passing into another State are entitled to all the rights and privileges that the citizens of the State into which they enter enjoy. If a person who is charged with any crime in one State flees from justice and is found in another State, it is the duty of the Governor of the State to which he has fled to surrender him on the demand of the Governor of the State from which he has fled, that he may be brought to trial and, if guilty, to punishment.

488. Privileges and Immunities of Citizens.— Section one of Amendment XIV. declares all persons born and naturalized in the United States and subject to their jurisdiction, to be citizens of the United States and of the State wherein they reside. It contains also the following declarations: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Union owes several important duties to the State.

489. Republican Form of Government.— The Union guarantees to every State a republican form of government. If a non-republican government should be established in any State by revolution or otherwise, it would be the duty of the Union to interfere and see that republican government be re-established. Power to decide in such cases what a republican form of government is, belongs to Congress.

490. Invasion and Domestic Violence.—The Union must also protect the States against invasion, and in emergencies against domestic violence. These duties are

the more necessary because the Constitution denies to the States the right to keep troops and ships of war in time of peace. If any State is invaded it is the duty of the President to call out the National forces to repel the invasion. In the first instance it is the duty of the State authority to suppress domestic violence within its borders, but if such authority in any case thinks the assistance of the United States to be necessary or advisable, it has the right to call for such assistance. The Legislature, if it be in session, and otherwise the Governor, makes the call. This call is addressed to the President, who takes such steps as he thinks necessary to accomplish the object.

491. The National Authority and the Public Peace.—There are, however, certain emergencies in which the President can act directly to suppress domestic violence. When such violence interferes with the operations of the National Government, he need not wait for the State Legislature or Governor to call for assistance, but is in duty bound to act at once to protect the operations of the Government and so to restore the public peace. Thus, when the United States mails and inter-State commerce were interrupted in Chicago in 1894, President Cleveland ordered the National forces to protect the mails and the railroads.

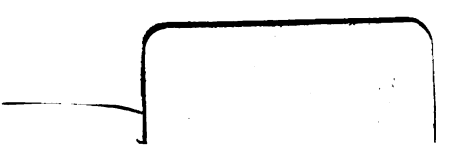
492. Supremacy of the Union.—The Constitution, laws, and treaties of the United States are the supreme law of the land. They supersede State constitutions and laws whenever these constitutions and laws encroach upon the supreme law. To secure this end, the judges of the State courts, in interpreting and declaring the law, must decide with the United States rather than with the State, in all cases of confliction. To secure this supremacy the more completely, Senators and Representatives

of the United States, members of the State Legislatures, and all executive and judicial officers, both of the United States and of the States, must take an oath or affirmation to support the Constitution of the United States. But no religious faith, opinion, or rite can be made a qualification for holding any office of public trust under the United States.

There are also many prohibitions laid upon the National authority. Several of these have been dealt with already in other places; others will be mentioned in this place.

493. Writ of Habeas Corpus.—In countries where this writ is recognized, a sheriff or other officer, or even a private individual, who has a person in his custody whom he is depriving of his liberty, can be made to show cause why he holds him. The person who is held as a prisoner, or other person in his interest, appeals to a court of competent jurisdiction for a writ of *habeas corpus*, which commands the officer or other person to bring his prisoner into court. If he can show no sufficient cause for holding him, the prisoner is set at liberty. This writ is one of the great bulwarks of personal liberty, and the Constitution provides that the privilege of the writ shall not be suspended unless in time of rebellion or invasion when the public safety requires it.

494. Bills of Attainder and Ex Post Facto Laws.—A bill of attainder is a legislative act that inflicts punishment of some kind upon a person without a judicial trial. An *ex post facto* law is a law that places some punishment upon an act that was not placed upon it when the act was done. Both the State Legislatures and Congress are forbidden to pass any bill of attainder or *ex post facto* law.



A statement of several restrictions that are imposed upon the States or the Union, or both States and Union, may fitly close this work.

495. Titles of Nobility.—These would plainly be out of character and be corrupting in tendency in a republican country. Republicanism assumes the equality of citizens. So it is provided that neither the United States nor any State shall grant any title of nobility. Furthermore, no officer of the United States can, without the consent of Congress, accept any present, office, or title from any king, prince, or foreign state.

496. No National Church.—Congress can pass no law in relation to a state church or establishment of religion, or prohibit the free exercise of religion. All churches and religions are, so far as the National authority is concerned, put on the same level. The separation of Church and State is a fundamental principle of American polity.

497. Freedom of Speech and the Right of Petition.—Congress can pass no law abridging the freedom of speech or of the press, or denying or limiting the right of citizens peaceably to assemble and to petition the Government for a redress of grievances. This provision, however, is no defense of license of speech or printing, such as slander or libel, or of public tumult and disorder.

498. Soldiers in Private Houses.—Tyrannical rulers have often accomplished their purpose of oppression by quartering soldiers in the houses of citizens, to overawe and intimidate them. In the United States soldiers can not be quartered in private houses without the consent of the occupants in time of peace, and not in time of war save in a manner that is prescribed by law.

499. The Militia.—Tyrannical governments have often found it necessary, in order to accomplish their purpose, to suppress the citizen soldiery, or to deny the people the right to keep and to bear arms. Our Constitution provides that, since a well regulated militia is necessary to the security of every state, the right of the people to keep and bear arms shall not be infringed.

500. Searches and Seizures.—Oppressive rulers have often, or generally, held themselves at perfect liberty to search the papers and persons of citizens or subjects, in order to find evidence for criminating them or for establishing their own tyranny the more thoroughly. Our Constitution provides that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated. Warrants for the purpose of making such seizures shall not be issued by magistrates unless there is probable cause for issuing them, which must be sworn to by the complainant; and even then they must particularly describe the place to be searched and the persons and things to be seized.

TOPICAL REVIEW OF THE NATIONAL GOVERNMENT.

I. Colonial Governments consisted of

(1) An Assembly,
(2) A Council,
(3) A Governor, and
(4) Courts of Law.

2. The Assembly was chosen by the people.
3. The Council, Governor, and Judges were appointed in various ways.
4. The Colonists possessed the rights of English subjects.
5. Parliament had power to nullify any law passed by the Colonies.
6. The Colonies owed a double allegiance: they were subject—
(1) To their own laws, and
(2) To those of Great Britain.
7. The Crown and Parliament had supremacy in national affairs.
8. The Colonial Governments were supreme in local affairs.
9. The attempt of Parliament to tax the Colonies precipitated the conflict which ended in independence.

II. Political Effects of Independence.

1. The Colonies became free and independent States.
2. The Union that had existed through Great Britain now existed through Congress.
3. The powers of Congress were defined by the Articles of Confederation.
4. Their inadequacies were supplied by the Constitution.
5. How the Constitution was framed.
6. How it was ratified.
7. The views of its friends and its enemies.
8. How the government was inaugurated.
9. How amendments may be proposed and ratified.
10. The amendments enumerated and characterized.
11. The preamble an enacting clause.
12. The preamble involves five things: *a.* The people enact it. *b.* It establishes a more perfect union. *c.* It establishes a constitutional government. *d.* It creates a federal state. *e.* The people delegate some powers and reserve others.
13. The provisions of the Constitution are embodied in VII. articles.

III. How Powers are Distributed.

1. A Legislative Department makes the laws. The President may veto and the Supreme Court annul them.
2. An Executive Department enforces and administers the laws. Congress may impeach.
3. A Judicial Department interprets and applies. The Legislative Department may impeach and the President and the Senate appoint or remove.

IV. The Legislative Department.

1. It is bicameral — two-chambered.
2. How the House is elected.
3. Qualifications of Representatives and Senators.
4. The qualifications of electors.
5. How Senators are elected: the four steps.
6. How vacancies are filled.
7. Classes of Senators.
8. Who may vote for Representatives.
9. How Representatives are apportioned.
10. The decennial census.
11. Method of apportionment.
12. Changes in the law: 1842, 1872, 1873.
13. Compensation of national legislators.
14. Privileges of members of Congress.
15. Prohibition affecting members of Congress.
16. Length of each Congress.
17. Times of meeting.
18. Officers of the Senate.
19. Officers of the House of Representatives.
20. Each House the judge of the rights, qualifications, etc., of its members.
21. Quorums to transact business.
22. Rules governing proceedings.
23. Power to punish its own members.
24. Journals and voting.
25. Mode of Legislating.
26. Action of the President.
27. Orders, resolutions.
28. The Committee system.
29. Adjournments.

V. Impeachments.

1. Any Civil Officer may be impeached.
2. The House impeaches.
3. The Senate tries impeachments.
4. How the trial is conducted.
5. The limit of punishment on conviction.
6. Summary of impeachments.

VI. Powers of Congress.

1. Taxation.
2. Special Rules.
3. Taxes: direct and indirect.

4. Borrowing money—Bonds and Treasury Notes.
5. Commerce.
6. Naturalization.
7. Bankruptcies.
8. Coinage.
9. History of the silver dollar.
10. Fineness, weight, and ratio of value of gold and silver.
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12. Counterfeiting.
13. The Independent Treasury.
14. National Banks.
15. Weights and Mesaures.
16. The postal service.
17. Rates of postage.
18. Copyrights and patent rights.
19. Piracies and felonies.
20. Power to declare war.
21. Federal district.
22. Power to make necessary laws.

VII. Powers of the Executive.

1. The executive power efficient.
2. How the President and V.-P. are elected.
3. How nominated.
4. Electoral ticket.
5. How electors are chosen.
6. How electors vote.
7. How their votes are counted.
8. When electors fail to elect, the House elects Pres. and Senate V.-P.
9. History of the electoral law.
10. Remarks on the System.
11. Qualifications, term, and salary.
12. Oath of office.
13. Duties of Vice-President,
14. The Presidential succession.
15. Commander-in-chief.
16. Power to pardon, except in impeachment cases.
17. Makes treaties by aid of Senate.
18. How treaties are made.
19. Appointive power.
20. The President nominates: the Senate confirms.
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22. Recognition of countries by receiving ministers.
23. The duties of consuls.
24. Military and naval officers appointed and removed.
25. The President's power of removal.
26. How vacancies are filled.
27. The civil service.
28. Civil service reform.
29. The President's messages.
30. Power to call special sessions of each or both Houses.

VIII. Executive Departments.

1. Department of State.
2. Department of the Treasury.
3. Department of War.
4. Department of Justice.
5. Post-office Department.
6. Department of the Navy,
7. Department of the Interior.
8. Department of Agriculture.
9. The Constitution and functions of the Cabinet.

IX. The Judicial Department.

1. Its functions and powers defined.
2. Where the power is vested.
3. The different kinds of courts.
4. The extent of the judicial power.
5. Original, concurrent, and appellate jurisdiction.
6. The number of District Courts.
7. The Circuit Courts.
8. The Circuit Courts of Appeals.
9. The Court of Claims.
10. Courts of the Federal District and Territories.
11. The Supreme Court.
12. How the judges are appointed.
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15. Appeals from State courts.
16. Rules regulating trials.
17. Military courts.
18. Treason and its punishment.

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2. Annexation of territory.
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4. Territories of the United States.
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5. Prohibitions laid on the States.
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11. The supremacy of the Union.
12. The writ of habeas corpus.
13. Bills of attainder and ex post facto laws.
14. No titles of nobility conferred — none to be accepted by public officers.
15. No national church.
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